Exhibit H

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Page 1
            IN THE COURT OF COMMON PLEAS
 1
 2.
        PHILADELPHIA COUNTY, PENNSYLVANIA
 3
 4
      IN RE: PELVIC MESH
      LITIGATION
 5
      PATRICIA L. HAMMONS
                              : MAY TERM, 2013
 6
            Plaintiff,
 7
                              : NO. 003913
            v.
 8
      ETHICON, INC., et al.
 9
10
                 September 1, 2015
11
12
13
                           Oral deposition of
     ANNE M. WEBER, M.D., taken pursuant to
14
     notice, was held at the law offices of
     Kline & Specter, 1525 Locust Street,
15
     Philadelphia, Pennsylvania commencing at
     9:03 a.m., on the above date, before
     Michelle L. Gray, a Registered
16
     Professional Reporter, Certified
17
     Shorthand Reporter and Notary Public.
18
19
20
21
22
             GOLKOW TECHNOLOGIES, INC.
          877.370.3377 ph | 917.591.5672 fax
23
                  deps@golkow.com
24
```

			1	<u>, </u>	
	•	Page 2			Page 4
1 /	APPEARANCES:		1	 INDEV	
3	MAZIE SLATER KATZ & FREEMAN, LLC		2	INDEX	
4	BY: ADAM SLATER, ESQUIRE 103 Eisenhower Parkway, 2nd Floor		4		
'	Roseland, New Jersey 07068			Testimony of: ANNE M. WEBER, M.D.	
5	(973) 228-9898		5	D 14 14 1 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2	
6	aslater@mskf.net Representing the Plaintiff		_	By Mr. Moriarty 8, 235	
7			6	By Mr. Slater 223	
8	KLINE & SPECTER, P.C. BY: KILA BALDWIN, ESQUIRE		7	by Mr. Sidter 223	
0	1525 Locust Street, 19th Floor		8		
9	Philadelphia, Pennsylvania 19102		9		
10	(215) 772-1000 kilabadwin@klinespecter.com		10	EXHIBITS	
	Representing the Plaintiff		11 12		
11	THEYED FILTE LLD		13	NO. DESCRIPTION PAGE	
12	TUCKER ELLIS, LLP BY: MATTHEW P. MORIARTY, ESQUIRE		14	Weber-1 Reliance Materials 9	
13	950 Main Avenue, Suite 1100		15	Weber-2 Report of Anne M. 22	
1/1	Cleveland, Ohio 44113 (216) 592-5009			Weber, M.D.	
14	matthew.moriarty@tuckerellis.com		16	Volume I & II	
15	Representing the Defendants		17	Weber-3 Notice of Deposition 24	
16	THOMAS, COMBS & SPANN, PLLC		18 19	Weber-4 Invoices for Hammons 28 Weber-5 Patient Registration 37	
17	BY: SUSAN M. ROBINSON, ESQUIRE		19	Daviess Hospital	
40	300 Summers Street, Suite 1380		20	2/1/07	
18	Charleston, West Virginia 25301 (304) 414-1805			DAVIESSHOSP000974-985	
19	srobinson@tcspllc.com		21		
20	Representing the Defendants			Weber-6 Report of Operation 80	
20 21			22	5/5/09 HAMMONSP_DAVCH_MDR00055-56	
22			23	HAMMONSP_DAVCH_MDR00033-30	
23 24			24		
1 2 3 4 5 6 7 8 9 10 11	(It is hereby stipulated and agreed by and among counsel that sealing, filing and certification are waived; and that all objections, except as to the form of questions, be reserved until the time of trial.)		1 2 3 4 5 6 7 8 9 10 11 12	EXHIBITS (Cont'd.) NO. DESCRIPTION PAGE Weber-7 Heartland Office 91 Visit 3/17/09 HAMMONSP_HEOBG_MDR00002-5 Weber-8 Daviess Community 102 Hospital, History & Physical 5/5/09 HAMMONSP_DAVCH_MDR00015-16 Weber-9 Start Coping 112 Start Living Slide Deck ETH.MESH.03906037-52	
12				Weber-10 FDA Public Health 117	
13			14	Notification 10/20/08	
14			15		
15			16	Weber-11 Dyspareunia and Mesh 118 Erosion After Vaginal	
16				Mesh Replacement with a	
17			17	Kit Procedure (Boyles)	
18			18	. , ,	
			10	Weber-12 Does the Prolift 120	
10			19	System Cause Dyspareunia? (Lowman)	
19					
20			20	,	
20 21				Weber-13 ACOG Practice 121	
20 21 22			20 21	,	
20 21			21 22	Weber-13 ACOG Practice 121 Bulletin Pelvic Organ	
20 21 22			21	Weber-13 ACOG Practice 121 Bulletin Pelvic Organ Prolapse	

1	Page 6			Page 8
1 2	EXHIBITS (Cont'd.)	1		
3		2	ANNE M. WEBER, M.D.,	
4		3	having been first duly sworn, was	
5	NO. DESCRIPTION PAGE	4	examined and testified as follows:	
6	Weber-14 Deaconess Women's 147	5		
	Hospital		EXAMINATION	
7	Operative Note	6	EXAMINATION	
	12/15/09	7		
8	HAMMONSP_WHC_MDR00006	8	BY MR. MORIARTY:	
9	Weber-15 Operative/Procedure 148	9	Q. Tell us your full name,	
10	Report (Heit) 11/28/12	10	please.	
10	HAMMONSP_RFC_MDR00088-91	11	A. Anne Margaret Weber.	
11	11/11 11 101(3) _1(1 0_1) 151(00000 31			
	Weber-16 Operative/Procedure 148	12	Q. Okay. You are Dr. Weber?	
12	Report (Heit)	13	A. Yes.	
	HAMMONSP_RFC_MDR00086-87	14	Q. I know you've been through	
13	_	15	depositions, and I know you've testified	
14		16	in court. Just to remind you, if you do	
l .				
15		17	not understand my question, please just	
16		18	tell me and I'll make it clear to you.	
17		19	Okay?	
18 19		20	A. Yes.	
20		21	Q. All right. How old are you,	
21				
22		22	Dr. Weber?	
23		23	A. 53.	
24		24	(Document marked for	
	Dage 7			Dage 0
	Page 7		Mark Carley and Fall the	Page 9
1		1	identification as Exhibit	Page 9
2	Page 7 DEPOSITION SUPPORT INDEX	1 2	identification as Exhibit Weber-1.)	Page 9
2				Page 9
2 3 4	DEPOSITION SUPPORT INDEX	2	Weber-1.) BY MR. MORIARTY:	Page 9
2 3 4 5	DEPOSITION SUPPORT INDEX Direction to Witness Not to Answer	2 3 4	Weber-1.) BY MR. MORIARTY: Q. I'm going to hand you what	Page 9
2 3 4	DEPOSITION SUPPORT INDEX Direction to Witness Not to Answer PAGE LINE	2 3 4 5	Weber-1.) BY MR. MORIARTY: Q. I'm going to hand you what I've marked as Exhibit 1. I apologize	Page 9
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	DEPOSITION SUPPORT INDEX Direction to Witness Not to Answer PAGE LINE 117 24 118 19 213 16 Request for Production of Documents PAGE LINE None. Stipulations PAGE LINE None. Questions Marked PAGE LINE	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Weber-1.) BY MR. MORIARTY: Q. I'm going to hand you what I've marked as Exhibit 1. I apologize for the thickness. These were printed just on one side. Is that your report in this, the Hammons case, plus the CV that you attached to it and the reliance list? MR. MORIARTY: Off the record. (Whereupon, a discussion was held off the record.) THE WITNESS: Yes. BY MR. MORIARTY: Q. So that is your report in this case and the reliance list? A. Yes. Q. All right. The address that's at the top, is that your home address?	Page 9
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		Page 10			Page 12
1	within your home?		1	A. Okay.	
2	A. Yes.		2	Q. All right. In 2015, have	
3	Q. Do you have any employees?		3	you resumed your license and the practice	
4	A. No.		4	of medicine?	
5	Q. Okay. So the research that		5	A. No.	
6	you do and the assembly of this sort of a		6	Q. In 2015, did you take any	
7	report is something that you do yourself?		7	privileges at any hospital?	
8	A. Yes.		8	A. No.	- 1
9	Q. All right. Do you have any		9	Q. In 2015, have you seen or	
10	research collaborators or subcontractors			• •	- 1
			10	examined any patients?	
11	that you hire to do research on matters		11	A. No.	- 1
12	like this?		12	Q. In 2015, have you looked at	- 1
13	A. No.		13	any pathological specimens under a	- 1
14	Q. Now, I think, as you		14	microscope?	- 1
15	understand, I'm here to ask you about		15	A. No.	- 1
16	your opinions regarding Pat Hammons.		16	Q. In 2015, have you	- 1
17	I've done my best to eliminate general		17	participated in the conduct of any	- 1
18	opinion questions that you may have been		18	clinical trials?	- 1
19	asked before. There may be times that I		19	A. No.	
20	stumble into one, if you'll excuse that.		20	Q. In 2015, have you spoken at	
21	Sometimes I need to do it as		21	any continuing medical education	- 1
22	background in context for a certain		22	conferences?	- 1
23	Hammons issue. Do you understand that?		23	A. No.	- 1
24	MR. SLATER: She may		23 24		
24	MR. SLATER. She may		24	Q. Have you spoken at any legal	
		Dage 11			Dage 13
1	understand but I'm going to	Page 11	1	conferences in 20152	Page 13
1	understand, but I'm going to	Page 11	1	conferences in 2015?	Page 13
2	object if you go into areas that	Page 11	2	A. No.	Page 13
2	object if you go into areas that are outside the agreement.	Page 11	2	A. No. Q. In 2015, have you either	Page 13
2 3 4	object if you go into areas that are outside the agreement. MR. MORIARTY: I understand	Page 11	2 3 4	A. No. Q. In 2015, have you either published or submitted to be published	Page 13
2 3 4 5	object if you go into areas that are outside the agreement. MR. MORIARTY: I understand that.	Page 11	2 3 4 5	A. No. Q. In 2015, have you either published or submitted to be published any articles in the peer-reviewed medical	Page 13
2 3 4 5 6	object if you go into areas that are outside the agreement. MR. MORIARTY: I understand that. MR. SLATER: I'm not going	Page 11	2 3 4 5 6	A. No. Q. In 2015, have you either published or submitted to be published any articles in the peer-reviewed medical literature?	Page 13
2 3 4 5 6 7	object if you go into areas that are outside the agreement. MR. MORIARTY: I understand that. MR. SLATER: I'm not going to have her answer those	Page 11	2 3 4 5	A. No. Q. In 2015, have you either published or submitted to be published any articles in the peer-reviewed medical literature? A. No.	Page 13
2 3 4 5 6 7 8	object if you go into areas that are outside the agreement. MR. MORIARTY: I understand that. MR. SLATER: I'm not going	Page 11	2 3 4 5 6	A. No. Q. In 2015, have you either published or submitted to be published any articles in the peer-reviewed medical literature?	Page 13
2 3 4 5 6 7	object if you go into areas that are outside the agreement. MR. MORIARTY: I understand that. MR. SLATER: I'm not going to have her answer those	Page 11	2 3 4 5 6 7	A. No. Q. In 2015, have you either published or submitted to be published any articles in the peer-reviewed medical literature? A. No.	Page 13
2 3 4 5 6 7 8	object if you go into areas that are outside the agreement. MR. MORIARTY: I understand that. MR. SLATER: I'm not going to have her answer those questions. We have an agreement	Page 11	2 3 4 5 6 7 8	A. No. Q. In 2015, have you either published or submitted to be published any articles in the peer-reviewed medical literature? A. No. Q. In 2015, have you been hired	Page 13
2 3 4 5 6 7 8	object if you go into areas that are outside the agreement. MR. MORIARTY: I understand that. MR. SLATER: I'm not going to have her answer those questions. We have an agreement that's a national agreement.	Page 11	2 3 4 5 6 7 8 9	A. No. Q. In 2015, have you either published or submitted to be published any articles in the peer-reviewed medical literature? A. No. Q. In 2015, have you been hired to consult with any drug or device	Page 13
2 3 4 5 6 7 8 9	object if you go into areas that are outside the agreement. MR. MORIARTY: I understand that. MR. SLATER: I'm not going to have her answer those questions. We have an agreement that's a national agreement. MR. MORIARTY: I understand.	Page 11	2 3 4 5 6 7 8 9 10	A. No. Q. In 2015, have you either published or submitted to be published any articles in the peer-reviewed medical literature? A. No. Q. In 2015, have you been hired to consult with any drug or device manufacturer? A. No.	Page 13
2 3 4 5 6 7 8 9 10 11 12	object if you go into areas that are outside the agreement. MR. MORIARTY: I understand that. MR. SLATER: I'm not going to have her answer those questions. We have an agreement that's a national agreement. MR. MORIARTY: I understand. I'm just asking if she understands.	Page 11	2 3 4 5 6 7 8 9 10 11 12	A. No. Q. In 2015, have you either published or submitted to be published any articles in the peer-reviewed medical literature? A. No. Q. In 2015, have you been hired to consult with any drug or device manufacturer? A. No. Q. Was there any literature	Page 13
2 3 4 5 6 7 8 9 10 11 12 13	object if you go into areas that are outside the agreement. MR. MORIARTY: I understand that. MR. SLATER: I'm not going to have her answer those questions. We have an agreement that's a national agreement. MR. MORIARTY: I understand. I'm just asking if she understands. MR. SLATER: She's here to	Page 11	2 3 4 5 6 7 8 9 10 11 12 13	A. No. Q. In 2015, have you either published or submitted to be published any articles in the peer-reviewed medical literature? A. No. Q. In 2015, have you been hired to consult with any drug or device manufacturer? A. No. Q. Was there any literature published in 2015 on which you are	Page 13
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		Page 14			Page 16
1	A. No.		1	reliance list. You can read the	
2	Q. Would you do you know off		2	dates on the articles just as well	
3	the top of your head whether there are		3	as she can. I'm not really sure	
4	any 2015 articles that you've added to		4	of the point of this.	
5	the reliance list?		5	I would anticipate that	
6	A. I don't know that off the		6	we'll be done before 4 o'clock.	
7	top of my head.		7	Right?	
8			8	MR. MORIARTY: I don't know.	
9	Q. Okay. Would you like to check and look?		9		
				MR. SLATER: I would expect	
10	MR. SLATER: You want her to		10	to be. Dr. Weber has a train back	
11	go through a 40-page reliance		11	to Maryland, and I have meetings.	
12	list?		12	Let the record reflect, Dr.	
13	MR. MORIARTY: Well, it's		13	Weber is continuing to flip page	
14	your list.		14	by page trying to answer defense	
15	MR. SLATER: What does it		15	counsel's questions about whether	
16	matter? I mean, please. This		16	or not any of the articles on the	
17	isn't she's here you're here		17	reliance list that he's had in his	
18	to ask specific opinions about		18	hands for however long it's been	
19	Ms. Hammons. So what literature		19	weeks or months, I don't even	
20	she's looked at literature		20	know when it was served whether	
21	she's looked at, actually isn't		21	or not it says 2015 on any of the	
22	what you should be asking about		22	articles, even though he obviously	
23	today. You should be asking about		23	could read that for himself.	
24	Patricia Hammons, sir.		24	And for the record, at the	
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		Page 15			Page 17
1	BY MR. MORIARTY:	Page 15	1	end of the day when we're ready to	Page 17
1 2	BY MR. MORIARTY: O. Okay. Would you like to	Page 15	1 2	end of the day when we're ready to	Page 17
2	Q. Okay. Would you like to	Page 15	2	go and we've wasted 20 minutes on	Page 17
2	Q. Okay. Would you like to look at your list and tell me if there	Page 15	2	go and we've wasted 20 minutes on this, that time is going to come	Page 17
2 3 4	Q. Okay. Would you like to look at your list and tell me if there are any new 2015 articles on which you	Page 15	2 3 4	go and we've wasted 20 minutes on this, that time is going to come out of this deposition. It's not	Page 17
2 3 4 5	Q. Okay. Would you like to look at your list and tell me if there are any new 2015 articles on which you are relying for your opinions?	Page 15	2 3 4 5	go and we've wasted 20 minutes on this, that time is going to come out of this deposition. It's not going to be that we're going to go	Page 17
2 3 4 5 6	Q. Okay. Would you like to look at your list and tell me if there are any new 2015 articles on which you are relying for your opinions? A. If you like.	Page 15	2 3 4 5 6	go and we've wasted 20 minutes on this, that time is going to come out of this deposition. It's not going to be that we're going to go on all day because Dr. Weber's	Page 17
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. Okay. Would you like to look at your list and tell me if there are any new 2015 articles on which you are relying for your opinions? A. If you like. MR. SLATER: Go ahead and take as long as you want, Dr. Weber. I guess you have to go through every page and see if the articles are published this year, even though counsel has it and he obviously knows if any are dated 2015. Although I will say, Counsel, this deposition is not going all night. So if you're going to MR. MORIARTY: I don't intend to go into the night.	Page 15	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	go and we've wasted 20 minutes on this, that time is going to come out of this deposition. It's not going to be that we're going to go on all day because Dr. Weber's forced to read something that counsel could have read himself. MR. MORIARTY: I understand. We're on the record. It's part of the time. Let me interrupt for a second. Doctor, what page are you on? MR. SLATER: She'll keep looking. She won't answer till I come back in the room. BY MR. MORIARTY: Q. Doctor, what page are you on?	Page 17
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1 MR. MORIARTY: All I did was ask her what page she was on. 3 MR. SLATER: Sorry. If Tm don't want you questioning when I'm not in the room, I don't want you questioning when I'm not in the room. 4 MR. MORIARTY: Well, you were in the room. 5 MR. SLATER: I was walking out with a phone. I got a very in important call, I thought. 10 out with a phone. I got a very in item word. 11 important call, I thought. 12 Now you can answer, Doctor. 13 THE WITNESS: 85. 14 BY MR. MORIARTY: 15 Q. When you get to 101, please let me know. 16 let me know. 17 A. Okay. Page 101. 18 Q. Page 101. Is that where it transitions into "Additional Documents"? 19 transitions into "Additional Documents" in evaluations into "Additional Documents" in evaluations into "Additional Documents" in the medical literature section of the reliance list, were there any 2015 articles. 19 MR. SLATER: The medical literature section of the reliance list, were there any 2015 articles. 10 MR. SLATER: Do you want her to stop reading that? You want her to stop reading that? You want the rot stop reading that? You want to her to go any further? 10 Q. Okay. I my subscribe to "The Gray Journal"? 11 A. No. 12 Q. Okay. And that is the only one page 101, A. No. 13 MR. SLATER: Do you want her to stop reading that? You want ther t						
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5 questioning when I'm not in the 6 form. 7 MR. MORIARTY: Well, you were in the room. 8 were in the room. 9 MR. SLATER: I was walking out with a phone. I got a very 10 Q. In 2015, have you performed or participated in any studies about the 11 participated in any studies about the 12 how you can answer, Doctor. THE WITNESS: 85. 13 A. No. 14 BY MR. MORIARTY: 15 Q. When you get to 101, please 16 let me know. 16 let me know. 17 A. Okay. Page 101. 18 Q. Page 101. Is that where it 17 transitions into "Additional Documents"? 20 A. It says that on the page. 21 Q. Okay. From your review of 22 the medical literature section of the 23 reliance list, were there any 2015 articles? 21 Q. Okay. From your review of 24 articles? 22 The WITNESS: That's what 1 I'm trying to discern. 23 The WITNESS: That's what 6 I'm trying to discern. 24 The WITNESS: That's what 1 I'm trying to discern. 25 THE WITNESS: That's what 1 I'm trying to discern. 26 Q. All I want to know is if in 4 medical literature section there were any 2015 articles. 26 A. No. 27 Okay. From your review of 29 Q. With ones do you subscribe to 4 A. Yes. 29 Q. With ones do you subscribe to 4 A. Yes. 20 Q. Okay. And that is the only 2015 articles. 27 In 2015, have you performed or participated in any studies on the distinction between laser- or 15 mechanical-cut mesh? 28 Q. All I want on the page. 20 any labels for medical devices? 21 A. No. 22 Q. Do you continue to subscribe to 4 A. Yes. 24 A. Yes. 25 Q. Which ones do you subscribe to, continuing now? 27 A. The American Journal of 29 Q. Which ones do you subscribe to 4 Q. Do ordor, in 2015, have you 29 Q. That is "The Gray Journal," do you have to be a member of ACOG? 29 PMR. MORIARTY: 20 Q. Doctor, in 2015, have you 21 access various resources on the Internet 22 or go to a medical library? 23 program? 27 or go are a medical library? 23 A. Yes.		•		4		
6 room. 7 MR. MORIARTY: Well, you 8 were in the room. 9 MR. SLATER: I was walking 10 out with a phone. I got a very 11 important call, I thought. 12 Now you can answer, Doctor. 13 THE WITNESS: 85. 14 BY MR. MORIARTY: 15 Q. When you get to 101, please 16 let me know. 17 A. Okay. Page 101. 18 Q. Page 101. Is that where it 19 transitions into "Additional Documents"? 20 A. It says that on the page. 21 Q. Okay. From your review of 22 the medical literature section of the 22 reliance list, were there any 2015 articles? 1 MR. SLATER: The medical 2 literature didn't end on Page 101, 3 Counsel. It says "Abstracts." It 4 says "Other Documents" - 4 A. No. 2 All I want to know is if in 5 THE WITNESS: That's what 6 I'm trying to discern. 3 Q. All I want to know is if in 6 MR. MORIARTY: 4 A. No. 5 THE WITNESS: That's what 6 MR. SLATER: Do you want her 14 to stop reading that? You want 15 her to go any further? 10 Q. Doctor, in 2015, have you performed any studies on contraction or shrinkage rates of polypropylene mesh? 10 Q. In 2015, have you performed any studies on contraction or shrinkage rates of polypropylene mesh? 11 A. No. 12 (a. In 2015, have you performed any studies on contraction or shrinkage rates of polypropylene mesh? 13 A. No. 14 Py MR. MORIARTY: 15 Q. Okay. Page 101. 16 det me know. 17 A. Okay. Page 101. 18 Q. Page 101. Is that where it 15 mericipated in any studies on the distinction between laser- or mechanical-cut mesh? 18 A. No. 19 C. In 2015, have you distinction between laser- or mechanical-cut mesh? 19 Q. In 2015, have you distinction between laser- or mechanical-cut mesh? 19 A. No. 20 In 2015, have you distinction between laser- or mechanical-cut mesh? 21 A. No. 22 In 2015, have you distinction between laser- or mechanical-cut mesh? 22 In 20 Do you continue to subscribe to medical literature section of the 22 polypropylene mesh? 24 A. No. 25 In 2015, have you distinction between laser- or mechanical-cut mesh? 26 A. No. 27 In 2015, have you distinction between laser- or mechanical-cut mesh? 28 In 2015		· · · · · · · · · · · · · · · · · · ·			,	
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9 MR. SLATER: I was walking 10 out with a phone. I got a very 11 important call, I thought. 12 Now you can answer, Doctor. 13 THE WITNESS: 8S. 14 BY MR. MORIARTY: 15 Q. When you get to 101, please 16 let me know. 17 A. Okay. Page 101. 18 Q. Page 101. 19 transitions into "Additional Documents"? 20 A. It says that on the page. 21 Q. Okay. From your review of 22 the medical literature section of the 23 reliance list, were there any 2015 24 articles? MR. SLATER: The medical 2 literature didn't end on Page 101, 3 Counsel. It says "Abstracts." It 4 says "Other Documents" - 5 THE WITNESS: Rhat's what 6 I'm trying to discern. 7 BY MR. MORIARTY: 8 Q. All I want to know is in 9 the medical literature section there were 10 any 2015 articles. 11 A. No. 11 Q. Okay. 12 Q. Okay. 13 MR. SLATER: Do you want her 14 to stop reading that? You want 15 MR. SLATER: So you stopped 16 MR. MORIARTY: 17 A. Okay. 18 MR. SLATER: So you stopped 19 MR. MORIARTY: 10 Q. Doctor, in 2015, have you 21 Q. Octor, in 2015, have you 22 taught at any medical school or residency 23 program? 24 A. Yes. 25 A. No. 26 In 2015, have you performed 27 or participated in any studies about the degradation of polypropylene mesh? A. No. Q. In 2015, have you 20 In 2015, have you 21 participated in any studies on the 21 distinction between laser- or 21 mechanical-cut mesh? A. No. Q. In 2015, have you drafted any labels for medical devices? A. No. Q. In 2015, have you drafted any labels for medical devices? A. No. Q. In 2015, have you drafted any labels for medical devices? A. No. Q. In 2015, have you drafted any labels for medical devices? A. No. Q. In 2015, have you drafted any labels for medical devices? A. No. Q. In 2015, have you drafted any labels for medical devices? A. No. Q. In 2015, have you drafted any labels for medical devices? A. No. Q. In 2015, have you drafted any labels for medical uncertainty for mechanical-cut mesh? A. No. Q. Do you continue to subscribe to medical journals? A. Yes. Q. Okay. And that is the only one you continue to subscribe to "					,	
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12 Now you can answer, Doctor. 13 THE WITNESS: 85. 14 BY MR. MORIARTY: 15 Q. When you get to 101, please 16 let me know. 17 A. Okay. Page 101. 18 Q. Page 101. Is that where it 19 transitions into "Additional Documents"? 20 A. It says that on the page. 21 Q. Okay. From your review of reliance list, were there any 2015 24 articles? 16 MR. SLATER: The medical 2 literature didn't end on Page 101, 3 Counsel. It says "Abstracts." It says "Other Documents" - 5 THE WITNESS: That's what 6 I'm trying to discern. 7 BY MR. MORIARTY: 8 Q. All I want to know is if in 9 the medical literature section there were any 2015 articles. 10 Q. Okay. 11 A. No. 22 Q. Do you continue to subscribe 15 to medical journals? 4 A. Yes. 5 Q. Which ones do you subscribe 16 to, continuing now? 17 A. No. 18 Q. In 2015, have you 19 articipated in any studies on the distinction between laser or mechanical-cut mesh? 18 A. No. 29 In 2015, have you 20 In 2015, have you drafted 21 any labels for medical devices? 20 A. No. 21 Q. In 2015, have you or any labels for medical devices? 21 A. No. 22 Q. In 2015, have you or drafted 22 any labels for medical evices? 23 A. No. 24 an No. 25 Q. In 2015, have you or drafted 26 any labels for medical devices? 26 A. No. 27 Q. In 2015, have you or drafted 28 participated in any studies on the distinction between laser or mechanical-cut mesh? 29 Q. In 2015, have you or drafted 20 any labels for medical devices? 20 In 2015, have you or drafted 21 A. No. 21 A. No. 22 Q. In 2015, have you or drafted 22 Q. Do you continue to subscribe 23 to medical journals? 24 A. No. 25 Q. Which ones do you subscribe 26 to, continuing now? 28 Y. A. The American Journal of 38 Obstetrics & Gynecology. 39 Q. That is "The Gray Journal"? 40 A. Yes. 41 A. No. 42 Q. Okay. 41 I want to know is if in 43 A. No. 44 No. 45 Q. In 2015, have you or drafted 45 A. No. 46 In 2015, have you or drafted 46 I'm trying to discern. 47 A. No. 48 Q. Do you continue to subscribe 49 C. Okay. And that is the only one you continue to subscribe to 40 Okay. 41 I want		• • • • • • • • • • • • • • • • • • • •				
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		Page 22			Page 24
1	bring extra copies of this. The location		1	MR. MORIARTY: Okay.	
2	and date of today is highlighted on this		2	MR. SLATER: Would you like	
3	document. But this is, Dr. Weber,		3	copies of those?	
4	Exhibit 3. It is the notice for this		4	MR. MORIARTY: Yes, please.	
5	deposition.		5	MR. SLATER: Say "please"	
6	MR. SLATER: Counsel, is		6	again. Just kidding.	
7	that the notice that you told me		7	These are our invoices dated	
8	in an e-mail don't worry about it,		8	May 5th, June 3, July 1, August 2,	
9	you only wanted a couple of things		9	2015.	
10	from it? Yeah, that is.		10	MR. MORIARTY: Do you have	
11	You realize you wrote me an		11	any objection to me marking them	
12	e-mail		12	collectively as Exhibit 4?	
13	MR. MORIARTY: Yeah.		13	MR. SLATER: I have no	
14	MR. SLATER: that said		14	objection to that. That sounds	
15	don't worry about this		15	like a splendid idea.	
16	MR. MORIARTY: Mr. Slater, I		16	(Document marked for	
17	remember my e-mail. You haven't		17	identification as Exhibit	
18	even heard the question yet.		18	Weber-4.)	
19	(Document marked for		19	BY MR. MORIARTY:	
20	identification as Exhibit		20	Q. Dr. Weber, I've had marked	
21	Weber-3.)		21	as Exhibit 4, a sequence of four letters	
22	BY MR. MORIARTY:		22	from you to Mr. Slater's office. And all	
23	Q. Is that the notice for this		23	it has to do with is the amount of time	
24	deposition?		24	that you've spent on this case. Okay.	
- '	deposition.		_ '	that you've spent on this case. Olay.	
		Page 23			Page 25
1	A It appears to be	Page 23	1	MR SLATER: And the amounts	Page 25
1 2	A. It appears to be. O Okay Have you ever seen it	Page 23	1 2	MR. SLATER: And the amounts	Page 25
2	Q. Okay. Have you ever seen it	Page 23	2	billed, right?	Page 25
2 3	Q. Okay. Have you ever seen it before?	Page 23	2	billed, right? MR. MORIARTY: And the	Page 25
2 3 4	Q. Okay. Have you ever seen it before? A. Yes.	Page 23	2 3 4	billed, right? MR. MORIARTY: And the amounts billed.	Page 25
2 3 4 5	Q. Okay. Have you ever seen it before? A. Yes. Q. All right. Did you bring	Page 23	2 3 4 5	billed, right? MR. MORIARTY: And the amounts billed. BY MR. MORIARTY:	Page 25
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		Page 26			Page 28
1	discussed.		1	A. Yes.	
2	BY MR. MORIARTY:		2	Q. Okay. Now, it's my	
3	Q. How many I just want to		3	understanding that "primary report"	
4	know how many people were in the group.		4	refers to what I have had marked here as	
5	A. Four.		5	Exhibit 2.	
6	Q. And was the meeting today or		6	(Document marked for	
7	yesterday?		7	identification as Exhibit	
8	A. Yesterday.		8	Weber-2.)	
9	Q. All right. So you had a		9	BY MR. MORIÁRTY:	
10	meeting presumably with Ms. Hammons'		10	Q. Weber Exhibit 2. It is a	
11	legal team. You reviewed her medical		11	report that you drafted in 2012. Let me	
12	records, or re-reviewed them. You		12	get the specific date. June 15, 2012,	
13	reviewed or re-reviewed some depositions.		13	addressed to Mr. Slater.	
14	You did those things,		14	A. Yes.	
15	correct?		15	Q. Okay. And this is a	
16	A. Yes.		16	two-volume document; is that right?	
17	Q. All right. Did you review		17	MR. SLATER: And, Counsel,	
18	reports from other experts for		18	for the record, it's over 500	
19	Mrs. Hammons such as Dr. Zipper,		19	pages that you've put on the	
20	Dr. Pence, any of those?		20	table. We're not going to go	
21			21		
	• •		22	through every page to confirm that	
22 23	report.			you actually that you have all	
	Q. Okay. Not not that of		23	the pages.	
24	Peggy Pence?		24	MR. MORIARTY: Well	
		Page 27			Page 29
1	A. No.	Page 27	1	MR. SLATER: So we're taking	Page 29
1 2	A. No.	Page 27	1 2	MR. SLATER: So we're taking	Page 29
2	Q. Or Dr. Elliott?	Page 27	2	your representation that you have	Page 29
2	Q. Or Dr. Elliott? A. No.	Page 27	2 3	your representation that you have provided it by other counsel of	Page 29
2 3 4	Q. Or Dr. Elliott?A. No.Q. Okay. Did you review any	Page 27	2 3 4	your representation that you have provided it by other counsel of Ethicon. I assume you don't want	Page 29
2 3 4 5	Q. Or Dr. Elliott? A. No. Q. Okay. Did you review any expert reports for the defense such as	Page 27	2 3 4 5	your representation that you have provided it by other counsel of Ethicon. I assume you don't want me to go through this thing and	Page 29
2 3 4 5 6	Q. Or Dr. Elliott? A. No. Q. Okay. Did you review any expert reports for the defense such as Dr. Lowman or Dr. Drolet?	Page 27	2 3 4 5 6	your representation that you have provided it by other counsel of Ethicon. I assume you don't want me to go through this thing and confirm all the pages are there.	Page 29
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		Page 30			Page 32
1	to be distracted by that. I'm not		1	prepared.	
2	even sure why we're doing this.		2	BY MR. MORIARTY:	
3	You're supposed to be asking about		3	Q. For 2014, have you done a	
4	her opinions on the Hammons case.		4	tax return?	
5	MR. MORIARTY: Because she		5	A. Yes.	
6	refers to it. And I want to make		6	Q. Okay. Other than work done	
7	sure that that's what she's		7	for Mr. Slater's law firm in consulting	
8	referring to.		8	on pelvic mesh cases, did you have any	
9	BY MR. MORIARTY:		9	·	
			10	other earned income on your 2014 tax	
10	Q. That's your primary report?			return?	
11	A. Yes.		11	A. No.	
12	Q. Okay. Thank you. Have you		12	Q. Other than consulting for	
13	ever done a report like Exhibit 2 for any		13	Mr. Slater on pelvic mesh cases in 2015,	
14	other about any other Ethicon product		14	to date, to the best of your knowledge,	
15	besides Prolift?		15	have you had other earned income?	
16	A. No.		16	A. No.	
17	Q. Getting back to Exhibit 4,		17	Q. Okay. I want to talk about	
18	these billing records, I understand that		18	some risk factors for Mrs. Hammons.	
19	you may be consulting with Mr. Slater on		19	Okay? And your report is over there	
20	other cases. Okay. For 2014		20	somewhere. You're more than welcome to	
21	MR. SLATER: She's not going		21	consult with it or the medical records if	
22	to answer questions about billing		22	you need to answer my question. Do you	
23	on other matters.		23	understand?	
24	MR. MORIARTY: Can you just		24	A. Yes.	
1-:	That Horaz act III dan you just			7.11 1.651	
		Page 31			Page 33
1	object?	Page 31	1	Q. Okay. Do you still	Page 33
1 2	object? MR. SLATER: My	Page 31	1 2	Q. Okay. Do you still subscribe to the view that risk factors	Page 33
2		Page 31		subscribe to the view that risk factors	Page 33
2 3	MR. SLATER: My	Page 31	2	subscribe to the view that risk factors for POP fall into the categories of	Page 33
2 3 4	MR. SLATER: My understanding is it's only about this case.	Page 31	2 3 4	subscribe to the view that risk factors for POP fall into the categories of predisposing, inciting, promoting, or	Page 33
2 3 4 5	MR. SLATER: My understanding is it's only about this case. MR. MORIARTY: Can you just	Page 31	2 3 4 5	subscribe to the view that risk factors for POP fall into the categories of predisposing, inciting, promoting, or decompensating?	Page 33
2 3 4 5 6	MR. SLATER: My understanding is it's only about this case. MR. MORIARTY: Can you just object?	Page 31	2 3 4 5 6	subscribe to the view that risk factors for POP fall into the categories of predisposing, inciting, promoting, or decompensating? A. In general, yes.	Page 33
2 3 4 5 6 7	MR. SLATER: My understanding is it's only about this case. MR. MORIARTY: Can you just object? MR. SLATER: I'm just	Page 31	2 3 4 5 6 7	subscribe to the view that risk factors for POP fall into the categories of predisposing, inciting, promoting, or decompensating? A. In general, yes. Q. Okay. Did Ms. Hammons have	Page 33
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Page 36 Page 37 Page 36 Page 37 Page 37 Page 37 Page 37 Page 38 Page 38 Page 38 Page 39 Page			1			
2 MR. SLATER: There's also a foundational issue with the question too. 5 BY MR. MORIARTY: 6 Q. They may in what sense, and in what sense may they not? 8 A. In order to answer that question, we would need to go through the risk factors one by one. 10 Q. Okay. Well, let's go 11 this case. Was Mrs. Hammons, because of 12 through the factors, and then I'll ask 13 you that question again. Okay? 14 Do we know whether 15 Mrs. Hammons had a genetic predisposition 16 to pelvic organ prolapse? 17 A. I don't think that's known. 18 Q. All right. Did Mrs. Hammons had a genetic predisposition to pelvic, organ prolapse? 18 Q. All right. Did Mrs. Hammons have 24 predisposing factor for prolapse. 19 Q. Because she had it at the 19 time of her prolapse surgery, at which time a 5 hysterectomy was done. 6 Q. Okay. Did she have at least two promoting factors, being obesity and smoking? 10 Mrs. SLATER: Objection. 9 Mrs. SLATER: Objection. 9 Mrs. SLATER: Objection. 10 You can answer. 10 You can answer. 11 THE WITNESS: Yes. 11 THE WITNESS: Yes. 11 THE WITNESS: Yes. 17 Q. All right. Did she have at least two promoting factors, being obesity and smoking? 10 Mrs. Hammons have 2 several decompensating risk factors, 11 including aging and menopause? 12 minuting and menopause? 13 Q. And did Mrs. Hammons have 24 several decompensating risk factors, 15 including aging and menopause? 14 minuting and menopause? 15 minuting and menopause? 15 minuting and menopause? 16 A. Yes. 17 Q. All right. Do a couple minuting and menopause? 17 minuting and menopause? 18 minutes ago I asked you whether - if a woman has these factors, if she's at risk 19 Q. Dottes same predisposing 23 Q. Do these same predisposing 23 Do you know if you've ver		· .	Page 34			Page 36
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		Page 38			Page 40
1	And just so the record is		1	please, about a third of the way down,	
2	clear, I can tell you what my		2	there's a pain assessment.	
3	understanding of this is. An emergency		3	Do you see that?	
4	room record, February 1, 2007, from		4	A. Yes.	
5	Daviess Community Hospital.		5	Q. And was she complaining of	
6	A. No, I have not seen this		6	some vaginal area pain?	
7	before.		7	A. Yes, in the vaginal area.	
8	Q. Okay. Do you agree with me		8	Q. Okay. If a patient has a	
9	that it's an emergency room record from		9	displaced pessary, can that be painful?	
10	Daviess Community Hospital, February 1st		10	A. I'm not sure what you mean	
11	of 2007?		11	by "displaced."	
12	A. Yes.		12	Q. Well, somewhere in here I	
13	Q. And the on the first		13	believe it either says that the pessary	
14	page, in the upper left-hand corner,		14	is displaced or it's crooked or something	
15	there's a section called "Diagnosis,		15	like that.	
16	Symptoms, Procedure."		16	My question is: Can a	
17	Do you see that?		17	displaced pessary, if it's still in place	
18	A. I'm sorry. I'm just reading		18	but not aligned where it's supposed to	
19	her name, and that's not her name.		19	be, can that be painful?	
20	Q. Okay. Well, if you go down		20	A. Yes.	
21	and look at the emergency contact, do you		21	Q. Okay. And if you go to the	
22	know that Chris Winkler is Patricia		22	second-to-last page of this, which is the	
23	Hammons' son?		23	review of systems and history form, do	
24	A. I'm aware that he is a		24	you see where it says "bladder fell"?	
-					
		Dago 30			Page 41
1		Page 39	1	Δ Yes	Page 41
1 2	family member. Yes.	Page 39	1 2	A. Yes. O All right So this record	Page 41
2	family member. Yes. Q. Okay. And do you know that	Page 39	2	Q. All right. So this record	Page 41
2 3	family member. Yes. Q. Okay. And do you know that Patricia Hammons works at Wal-Mart, which	Page 39	2	Q. All right. So this record would be consistent with a history given	Page 41
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24 of her Prolift procedure, correct?	22	up to three or four questions.			•	
į l	22 23	up to three or four questions. I object. It's argumentive.		23	stress urinary incontinence as a result	

		Page 46			Page 48
1	 A. She does not have stress 		1	it clear in the prelude to my question	
2	incontinence symptoms as of Dr. Zipper's		2	that I'm not asking you about 2012, what	
3	report.		3	complaints she made then prior to her	
4	Q. Okay. So does that mean		4	interventions. I'm asking about now.	
5	that you're not going to be rendering		5	Okay.	
6	opinions at the time of trial about		6	A. Okay. So could you rephrase	
7	whether she's got stress urinary		7	the question again, please.	
8	incontinence as a result of her Prolift		8		
				Q. Based on what you know now,	
9	procedure?		9	you're not going to render opinions at	
10	A. I don't think I can answer		10	the time of trial that she currently has	
11	that question the way you're asking it.		11	stress urinary incontinence as a result	
12	She's had interventions		12	of her Prolift; is that correct?	
13	since her Prolift surgery.		13	A. She does not currently have	
14	Q. Yes.		14	stress urinary incontinence.	
15	A. So I just I don't think I		15	Q. At all, right?	
16	can answer your question the way it's		16	A. She does not currently have	
17	stated.		17	stress urinary incontinence.	
18			18	•	
	Q. Okay. So what I'm trying to			• , , , ,	
19	find out is about her current complaints,		19	it is that you stopped practicing	
20	not a complaint as you know them.		20	medicine. I know it was in 2005 or 2006.	
21	Okay. I understand that you haven't seen		21	But can you tell me specifically when	
22	her and Dr. Zipper hasn't seen her in a		22	that was?	
23	month or two. I'm not asking about what		23	 A. I believe that was in 	
24	complaints she may have made in 2012.		24	May 2006.	
		Page 47			Page 49
1	Okay. I'm asking, to the best of your	Page 47	1	O. Prior to May of 2006, was	Page 49
1 2	Okay. I'm asking, to the best of your understanding today, she's not	Page 47		Q. Prior to May of 2006, was there a period of time when you were not	Page 49
2	understanding today, she's not	Page 47	2	there a period of time when you were not	Page 49
2	understanding today, she's not complaining of stress urinary	Page 47	2 3	there a period of time when you were not practicing but had not retired or	Page 49
2 3 4	understanding today, she's not complaining of stress urinary incontinence. Is that true?	Page 47	2 3 4	there a period of time when you were not practicing but had not retired or resigned your license?	Page 49
2 3 4 5	understanding today, she's not complaining of stress urinary incontinence. Is that true? A. True.	Page 47	2 3 4 5	there a period of time when you were not practicing but had not retired or resigned your license? A. No.	Page 49
2 3 4 5 6	understanding today, she's not complaining of stress urinary incontinence. Is that true? A. True. Q. All right. So you're not	Page 47	2 3 4 5 6	there a period of time when you were not practicing but had not retired or resigned your license? A. No. Q. Okay. So you were	Page 49
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Page 50 Page 52 1 Do you know how many you 1 patient who has prolapse? Or are you 2 2 just describing a patient who's having a performed? 3 3 vaginal hysterectomy? Α. No. 4 4 Probably a lot, right? Q. Just a patient who's having Q. 5 Probably. 5 a vaginal hysterectomy. Α. 6 Okay. Do you have any 6 A. So, in general, a general criticisms of Dr. Baker for performing a 7 risk for a hysterectomy is dyspareunia. 7 hysterectomy in May of 2009 on 8 Q. All right. And from your 8 9 Mrs. Hammons? I don't want to talk about 9 experience and your review of the technique. I just want to talk about the 10 literature, what was the de novo 10 decision to perform a hysterectomy. Was dyspareunia rate following vaginal 11 11 it indicated in 2009? hysterectomy, either now or in 2009? 12 12 Based on Dr. Baker's A. That's a number that's very 13 Α. 13 hard to pin down because of the different 14 surgical judgment, it was indicated. 14 definitions that are used, and many women 15 Q. Even -- okay. Assuming 15 Dr. Baker performed just a hysterectomy 16 have concomitant operations, so it's very 16 with no pelvic organ prolapse procedure difficult to parse what may be due 17 17 18 at all in 2009, was Mrs. Hammons at risk 18 strictly to the hysterectomy. So it's very hard to put an 19 for dyspareunia? 19 absolute number on that rate. 20 Speaking in general, 20 21 dyspareunia is a possible risk factor 21 Q. How about a range? related to hysterectomy. If you're 22 MR. SLATER: Objection. 22 23 talking specifically about Mrs. Hammons, 23 THE WITNESS: A range has 24 that's a different situation. 24 the same problem. Page 51 Page 53 Q. Okay. Tell me why 1 BY MR. MORIARTY: 1 Mrs. Hammons is a different situation. 2 2 Q. Okay. Do you know the high 3 3 A. Because the patient you're end of the range? 4 describing is not Mrs. Hammons. 4 MR. SLATER: Objection. 5 Mrs. Hammons did not just have a 5 THE WITNESS: That's the 6 hysterectomy, if I understood your 6 same question. If you ask me for 7 question correctly. 7 a range, and I replied that has 8 8 Q. Okay. Well, you understand the same problems, then the high 9 9 my question is a hypothetical? end of the range has the same MR. SLATER: I don't 10 problem also. 10 11 11 BY MR. MORIARTY: understand. 12 THE WITNESS: Well, it's 12 Okay. My question is just from your own personal experience as a 13 either hypothetical or 13 surgeon who used to perform Mrs. Hammons. It can't be both. 14 14 hysterectomies and from your review of 15 BY MR. MORIARTY: 15 16 Okay. Assume a patient like 16 the literature. What is your Mrs. Hammons just had a vaginal understanding of either the average or 17 17 hysterectomy in May of 2009. She would the range of the de novo dyspareunia 18 18 have been at some risk for dyspareunia, 19 19 rate? 20 20 correct? Α. I have not done a specific 21 A. I would just like to 21 literature review -clarify. In naming this hypothetical 22 22 MR. SLATER: Objection to patient as like or describing them as 23 23 the question. 24 like Mrs. Hammons, are you describing a 24 THE WITNESS: -- to be able

1 to answer your question. 2 In my personal surgical experience, I don't recall a experience, I don't head of the point is the form of the positive for the procedures Dr. Baker performed in 3 2009, neither he nor Dr. Rohrer nor, to the poscedures Dr. Baker performed in 3 2009, neither he nor Dr. Rohrer nor, to the poscedures Dr. Baker performed in 3 2009, neither he nor Dr. Rohrer nor, to the poscedures Dr. Baker performed in 3 2009, neither he nor Dr. Rohrer nor, to the best of our knowledge, anyone else measured the length of her vagina? 1 Q. Okay. Is it true that prior to the procedures Dr. Baker performed in 3 2009, neither he nor Dr. Rohrer nor, to the best of our knowledge, anyone else measured the length of her vagina? 2 A. I don't have a reason to dispute that specific figure. Cervical size varies depending on a whole host of 12 factors. 3 Q. Okay. Now, when I asked you a couple of minutes ago about whether dyspareunia was a potential complication of a vaginal hysterectomy, to your 17 knowledge from the published literature, 18 knowledge from the published literature, 19 dyspareunia was a potential complication of the form of the question. 2 You can answer. 3 D. Okay. Sat Table Who Progressive condition, such that it may get worse slowly progressive condition, such that it may get worse slowly progressive condition on which to respond to that show when she say him in order to 2 she was when she say hi						
2 In my personal surgical experience, I don't recall a 3 a gereince, I don't recall a 4 patient who had dyspareunia after a hysterectomy alone. 5 Q. Yes. 6 BY MR. MORIARTY: 7 Q. Okay. Now, if a patient who has a vaginal hysterectomy is going to develop dyspareunia, is one of the vagina as a result of the trimming that 12 is done as part of the surgery? 13 MR. SLATER: Objection. 14 THE WITNESS: Timming is not typically done at the time of hysterectomy. 15 not typically done at the time of hysterectomy. 16 and not treated her at all, correct? 17 BY MR. MORIARTY: 17 MR. SLATER: Objection to the grain following hysterectomy a potential cause for dyspareunia? 18 Q. Okay. Is it true that prior 2 to the procedures Dr. Baker performed in 3 2009, neither he nor Dr. Rohrer nor, to 4 the best of our knowledge, anyone else 5 measured the length of her vagina? 19 Q. Okay. Is it true that prior 2 to the procedures Dr. Baker performed in 3 2009, neither he nor Dr. Rohrer nor, to 4 centimeters in diameter? 4 A. In general, 20 Correct. 10 dispute that specific figure. Cervical 11 size varies depending on a whole host of 12 factors. 10 MR. SLATER: Objection to 12 factors. 10 MR. SLATER: Objection to 15 for many, many years. In other women, it's a slowly progressive condition, such that it may get worse slowly over time. 11 MR. SLATER: Objection to 16 dispute that specific figure. Cervical 19 dyspareunia was a potential complication of of a vaginal hysterectomy, to your 17 knowledge from the published literature, 18 is there a breakdown of whether that 19 dyspareunia is chronic or transient? 19 the form of the question. 19 you can answer. 19 information on which to respond to that 19 information in the 20 since he - his was the first-time visit, 20 since he - his was the initial to the point 20 since he - his was the initial to the point 20 since he - his was the initial to the point 20 since he - his was the initial to the point 20 since he - his was the initial to the point 20 since he - his was the initial to the point 20 sinc			Page 54			Page 56
a experience, I don't recall a patient who had dyspareunia after a hysterectomy alone. 5 a hysterectomy alone. 6 BY MR. MORIARTY: 7 Q. Okay. Now, if a patient who as a vaginal hysterectomy is going to develop dyspareunia, is one of the potential factors shortening of the vagina as a result of the turnming that is done as part of the surgery? 13 MR. SLATER: Objection. 14 THE WITINESS: Trimming is not typically done at the time of hysterectomy. 15 not typically done at the time of hysterectomy. 16 A. In general? 7 Q. Okay. Let's talk about the options that Dr. Baker had to address Mrs. Hammons' pelvic organ prolapse in Mrs. Hammons' pelvic organ prolapse? 1 Q. Okay. Is it true that prior to the procedures Dr. Rohrer nor, to the procedures Dr. Baker performed in 2009, pelvic pelvic organ prolapse and be table for mrs. Page 57 1 Q. Okay. Is it true that prior to the procedures Dr. Rohrer nor, to the best of our knowledge, anyone else measured the length of her vagina? 2 Q. Okay. Is it true that prior to the pr	1	to answer your question.		1	breakdown.	
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11 Vagina as a result of the trimming that 12 is done as part of the surgery? 13 MR. SLATER: Objection. 14 THE WITNESS: Trimming is 15 not typically done at the time of 16 hysterectomy. 17 BY MR. MORIARTY: 18 Vagina following hysterectomy a potential 20 cause for dyspareunia? 21 MR. SLATER: Objection. 22 THE WITNESS: In general, 23 yes. 24 BY MR. MORIARTY: 25 Q. Okay. Is it true that prior 26 to the procedures Dr. Baker performed in 27 20 Vagor, Is it true that prior 28 Vagor, Is it true that prior 29 to the procedures Dr. Baker performed in 30 2009, neither he nor Dr. Rohrer nor, to 40 the best of our knowledge, anyone else 41 THE WITNESS: Neither or, to 42 Vagor, Is it true that prior 43 Vagor, Is it true that prior 44 Course of her pelvic organ prolapse? 45 MR. SLATER: Objection to 46 A. That's correct. 47 Q. Is the cervix typically 3 to 48 A. That's correct. 49 A. I don't have a reason to 40 dispute that specific figure. Cervical 41 Size varies depending on a whole host of 42 factors. 43 Q. Okay. Now, when I asked you 44 a couple of minutes ago about whether 45 dyspareunia was a potential complication 46 A. Tadn't sorrect. 47 Q. Okay. Now, when I asked you 48 A. I don't have a reason to 49 G. Okay. Now, when I asked you 40 Now, I assume that he could 40 A. Diex taken a watchful waiting perspective 41 and not treated her at all, correct? 48 MR. SLATER: Objection to 49 THE WITNESS: That's 40 Diextent a was the likely natural 41 Vagor and the wast the likely course of 40 THE WITNESS: That's 41 THE WITNESS: That's 42 Course of her pelvic organ prolapse in 41 A. Okay. 42 O. Okay. Is ferent. 43 THE WITNESS: That's 44 Course of her pelvic organ prolapse in 45 THE WITNESS: That's 46 THE WITNESS: That's 47 Q. Okay. Is ferent. 48 A. Yeah, I don't have any 49 A. I don't have any 40 A. I don't have any 41 A. Oylo Anne and the could have been 41 A. Yeah, I don't have any 41 A. You can answer	9	develop dyspareunia, is one of the		9	Q. Okay. Let's talk about the	
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13 MR. SLATER: Objection. 14 THE WITNESS: Trimming is 15 not typically done at the time of 16 hysterectomy. 17 BY MR. MORIARTY: 18 Q. Okay. Is foreshortened 19 vagina following hysterectomy a potential 20 cause for dyspareunia' 21 MR. SLATER: Objection. 22 THE WITNESS: In general, 23 yes. 24 BY MR. MORIARTY: 25 THE WITNESS: In general, 26 O. Okay. Is it true that prior 27 to the procedures Dr. Baker performed in 28 20 20, okay. Is it true that prior 29 to the procedures Dr. Baker performed in 29 20, okay. Is it true that prior 20 to the procedures Dr. Baker performed in 21 Q. Okay. Is it true that prior 22 the best of our knowledge, anyone else 23 measured the length of her vagina? 24 the best of our knowledge, anyone else 25 measured the length of her vagina? 26 A. That's correct. 27 Q. Is the cervix typically 3 to 28 4 centimeters in diameter? 29 A. I don't have a reason to 20 dispute that specific figure. Cervical 21 size varies depending on a whole host of 22 factors. 23 Q. Okay. Now, when I asked you 24 a couple of minutes ago about whether 25 dyspareunia was a potential complication 26 of a vaginal hysterectomy, to your 27 knowledge from the published literature, 28 is there a breakdown of whether that 29 dyspareunia is chronic or transient? 20 MR. SLATER: Objection to 21 the form 22 the WITNESS: Tand's 23 course, what was the likely natural 24 course of her pelvic organ prolapse? Page 57 1 MR. SLATER: Objection to 2 the form. 2 2 the WITNESS: Tand's 2 course of her pelvic organ prolapse? Page 57 1 MR. SLATER: Objection to 2 the form. 3 2009, neither he nor Dr. Rohrer nor, to 4 the best of our knowledge, anyone else 4 THE WITNESS: Yeah, that 4 varies very widely. In some 4 vomen, it's a slowly progressive 5 condition, such that it may get 6 worse slowly over time. 19 Witness in diameter? 10 worse slowly over time. 11 BY MR. MORIARTY: 12 Q. Okay. Based on your 13 A. Okay. 14 A. Okay. 15 MR. SLATER: Objection to 16 the form. 17 knowledge from the published literature, 18 is there a breakdown of whethe	12	is done as part of the surgery?		12	May of 2009. Okay?	
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1	Q. Okay. So let me make sure I		1	emergency room record. I just I know	
2	understand what you just said.		2	the things that you pointed out to me.	
3	If all we have in points of		3	Do you want me to read this	
4	time are this February of 2007 emergency		4	emergency room record to be able to	
5	room record and then whatever Dr. Rohrer		5	answer that question?	
6	noted in 2008 up to 2009, that isn't		6	Q. No. All we know is that she	
7	enough information for you to render an		7	had one in February of 2007 and	
8			8		
	opinion about what I just asked you,			apparently wasn't using one when she	
9	natural course? Is that what you're		9	reported to Dr. Rohrer in 2008 or to	
10	telling me?		10	Dr. Baker in 2009. Okay. Just those	
11	MR. SLATER: Objection.		11	facts.	
12	You can answer.		12	Is it unlikely that she	
13	THE WITNESS: To my		13	would have accepted pessary as a	
14	understanding, there's no I		14	treatment for her pelvic organ prolapse	- 1
15	didn't look specifically for an		15	in 2009?	
16	assessment of the extent of her		16	MR. SLATER: Objection. You	- 1
17	prolapse in her emergency room		17	can answer.	
18	record.		18	THE WITNESS: I don't know.	- 1
19	My understanding from		19	That's speculation.	- 1
20	Dr. Rohrer's records was that he		20	BY MR. MORIARTY:	
21	did not perform an examination		21	Q. What other nonsurgical	- 1
22	that would identify the level or		22	treatments would have been likely to have	- 1
23	degree of prolapse that she had.		23	been available, acceptable options for	- 1
24	So even though she was		24	Dr. Baker to offer Mrs. Hammons in May of	- 1
47	30 even though she was		27	Dr. Daker to offer 1413. Harrimons in 14lay of	- 1
		Page 50			Page 61
1	accessed at those points in time	Page 59	1	20092	Page 61
1	assessed at those points in time,	Page 59	1	2009?	Page 61
2	I don't have any extra information	Page 59	2	A. In addition to the pessary,	Page 61
2	I don't have any extra information about the level of her prolapse in	Page 59	2 3	A. In addition to the pessary, you mean?	Page 61
2 3 4	I don't have any extra information about the level of her prolapse in 2007 or 2008 that would help me	Page 59	2 3 4	A. In addition to the pessary, you mean? Q. Yep.	Page 61
2 3 4 5	I don't have any extra information about the level of her prolapse in 2007 or 2008 that would help me predict what might happen to her	Page 59	2 3 4 5	A. In addition to the pessary, you mean? Q. Yep. A. It depends on her symptoms.	Page 61
2 3 4 5 6	I don't have any extra information about the level of her prolapse in 2007 or 2008 that would help me predict what might happen to her after Dr. Baker sees her in 2009.	Page 59	2 3 4 5 6	 A. In addition to the pessary, you mean? Q. Yep. A. It depends on her symptoms. Q. Do you have enough 	Page 61
2 3 4 5 6 7	I don't have any extra information about the level of her prolapse in 2007 or 2008 that would help me predict what might happen to her after Dr. Baker sees her in 2009. BY MR. MORIARTY:	Page 59	2 3 4 5	A. In addition to the pessary, you mean? Q. Yep. A. It depends on her symptoms. Q. Do you have enough information about her symptoms from	Page 61
2 3 4 5 6 7 8	I don't have any extra information about the level of her prolapse in 2007 or 2008 that would help me predict what might happen to her after Dr. Baker sees her in 2009. BY MR. MORIARTY: Q. Okay. Was Mrs. Hammons	Page 59	2 3 4 5 6 7 8	A. In addition to the pessary, you mean? Q. Yep. A. It depends on her symptoms. Q. Do you have enough information about her symptoms from Dr. Baker's medical records to answer	Page 61
2 3 4 5 6 7 8	I don't have any extra information about the level of her prolapse in 2007 or 2008 that would help me predict what might happen to her after Dr. Baker sees her in 2009. BY MR. MORIARTY: Q. Okay. Was Mrs. Hammons I'm sorry. Let me rephrase that.	Page 59	2 3 4 5 6 7 8 9	A. In addition to the pessary, you mean? Q. Yep. A. It depends on her symptoms. Q. Do you have enough information about her symptoms from Dr. Baker's medical records to answer that question?	Page 61
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	Page 62			Page 64
1	THE WITNESS: I'm sorry.	1	they typically would accept it, knowing	
2	Could you repeat the last part of	2	what you know about pessaries.	
3	the sentence?	3	 A. It really depends on her 	
4	BY MR. MORIARTY:	4	goals for treatment.	
5	Q. Is it unlikely that a	5	Q. Okay.	
6	pessary was a viable option for her in	6	A. Is now a good time for a	
7	2009?	7	break?	
8	A. No. It was not unlikely.	8	Q. Sure. If you want one.	
9	Q. Was it unlikely to be	9	A. Please.	
10	accepted as an option in 2009?	10	(Short break.)	
11	MR. SLATER: Objection to	11	BY MR. MORIARTY:	
12	the form of the question.	12	Q. Dr. Weber, was it reasonable	
13	THE WITNESS: I don't know.	13	for Dr. Baker to operate on Mrs. Hammons	
14	The interaction between the doctor	14	for pelvic organ prolapse in 2009?	
15	and the patient and her symptoms	15	A. Based on the discussion that	
16	and her goals drive treatment	16	he had with her, all of which is not	
17	decisions. And I don't have that	17	recorded in the records, I would make the	
18	information.	18	assumption that, yes, he and she jointly	
19	BY MR. MORIARTY:	19	determined that it was reasonable.	
20	Q. Okay. If she had a Grade 4	20	Q. Okay. So when we talk about	
21	cystocele as Dr. Baker writes in his	21	his surgical options, if he was going to	
22	notes, and she had already tried and	22	perform a vaginal hysterectomy, how many	
23	stopped using a pessary and she wanted to	23	surgical options did he have at that	
24	remain sexually active, is it unlikely	24	point to treat her pelvic organ prolapse?	
	Terriant sexually deavey is te armitely	_ '	point to treat her pervie organ prolapse.	
	Page 63			Page 65
1		1	MR. SLATER: Objection.	Page 65
	that a pessary would have been an	1 2	MR. SLATER: Objection. Foundation.	Page 65
1 2 3				Page 65
2	that a pessary would have been an acceptable option to the patient in May of 2009?	2	Foundation.	Page 65
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2 3 4	that a pessary would have been an acceptable option to the patient in May of 2009? A. No, it is not unlikely. Q. Okay.	2 3 4	Foundation. THE WITNESS: At least three. BY MR. MORIARTY:	Page 65
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	•	Page 66			Page 68
1	time.	3	1	decisionmaking process? I mean, I know	
2	Q. Okay. And something like		2	you wrote this in 2012. But at that	
3	Gynemesh PS was also an option at that		3	point, you were talking generally?	
	time, transvaginally, correct?				
4			4	A. In general, yes.	
5	A. The Gynemesh PS alone could		5	Q. Of the options that you	
6	have been used to address her anterior		6	mentioned for the uterine prolapse and	
7	Prolift prolapse. Excuse me.		7	the anterior prolapse, just the native	
8	Q. Did as a surgeon, would		8	tissue repairs, many of those had been in	
9	it make sense to do a vaginal		9	use for many years before 2009; is that	
10	hysterectomy but an abdominal		10	correct?	
11	sacrocolpopexy?		11	A. Yes.	
12	A. No.		12	Q. And of all the options that	
13			13	you mentioned to me I'm sorry. Let me	
	, ,				
14	to do an abdominal sacrocolpopexy, you'd		14	take a step back.	
15	probably do an abdominal hysterectomy?		15	What are the three native	
16	 A. If a hysterectomy was part 		16	tissue repairs that would have been	
17	of the procedure, yes, it would be done		17	available to Dr. Baker? I assume	
18	abdominally.		18	anterior colporrhaphy?	
19	Q. Okay. All right. So if I		19	A. Yes.	
20	understood you correctly, to address the		20	Q. What else?	
21	uterine prolapse, there were at least		21	A. Paravaginal repair and a	
22	three options, and you named them,		22	site-specific fascial defect repair.	
23	correct?		23	Q. Okay. So of the six native	
24					
24	A. Yes.		24	tissue techniques that you've mentioned,	
		Dags (7			Da = 2 CO
١,	O And then to address the	Page 67	1	how many of those had been the subject of	Page 69
1	Q. And then to address the	Page 67	1	how many of those had been the subject of	
2	anterior prolapse, you said that there	Page 67	2	evidence-based controlled trials by 2009?	
2	anterior prolapse, you said that there were a number of different vaginal repair	Page 67	2 3	evidence-based controlled trials by 2009? MR. SLATER: What is the	
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		Page 70			Page 72
1	art?	-	1	include a trial comparing	-
2	A. Sir, I'm just trying to		2	colporrhaphy to a use of mesh?	
3	understand your question so I can answer		3	MR. MORIARTY: Sure. As	
4	it appropriately. I know what it means		4	long as it was reported before May	
5	to me. I'm I'm asking what it means		5	of 2009.	
6	to you so I can be sure to answer		6	THE WITNESS: To the best of	
7	responsively.		7	my remembering at the moment, two.	
8	Q. I want I want you to		8	BY MR. MORIARTY:	
9	answer as it means to you. As controlled		9		
	•				
10	trials means to you.		10	clear for the record, by May of 2009,	
11	A. Okay. Were any of the		11	Prolift had been the 510(k) had been	
12	procedures I'm sorry. Now you're		12	cleared by the FDA, correct?	
13	going to have to start again with the		13	A. Yes.	
14	beginning of the question.		14	Q. Okay. Do you are you	
15	Q. What I'm trying to figure		15	going to express any opinions about	
16	out and I will try to make this go		16	whether the best surgical course for	
17	faster.		17	Mrs. Hammons in May of 2009 was vaginal	
18	I've seen writings in the		18	hysterectomy plus a native tissue	
19	peer-reviewed literature, including		19	prolapse procedure, or is it your opinion	
20	things you've written that talk about the		20	that he should have done abdominal	
21	lack of clinical trials on some of these		21	sacrocolpopexy to address her prolapse?	
22	procedures, even many of the old ones		22	 A. I'm sorry. Could you repeat 	
23	that have been around for years and years		23	the question?	
24	and years. Okay?		24	Q. Sure. Just so we don't go	
		Page 71			Page 73
1	A. Okay.	Page 71	1	off on a complete tangent talking about	Page 73
2	A. Okay. Q. So what I'm trying	Page 71	1 2	abdominal sacrocolpopexy. Okay.	Page 73
	<u>-</u>	Page 71			Page 73
2	Q. So what I'm trying	Page 71	2	abdominal sacrocolpopexy. Okay.	Page 73
2	Q. So what I'm trying MR. SLATER: Objection to	Page 71	2	abdominal sacrocolpopexy. Okay. Although it was an option available to	Page 73
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2 3 4 5 6	Q. So what I'm trying MR. SLATER: Objection to the characterization. BY MR. MORIARTY: Q. So what I'm trying to find	Page 71	2 3 4 5 6	abdominal sacrocolpopexy. Okay. Although it was an option available to Dr. Baker in 2009, because of the uterine prolapse and assuming he was going to do a hysterectomy, is it your opinion that	Page 73
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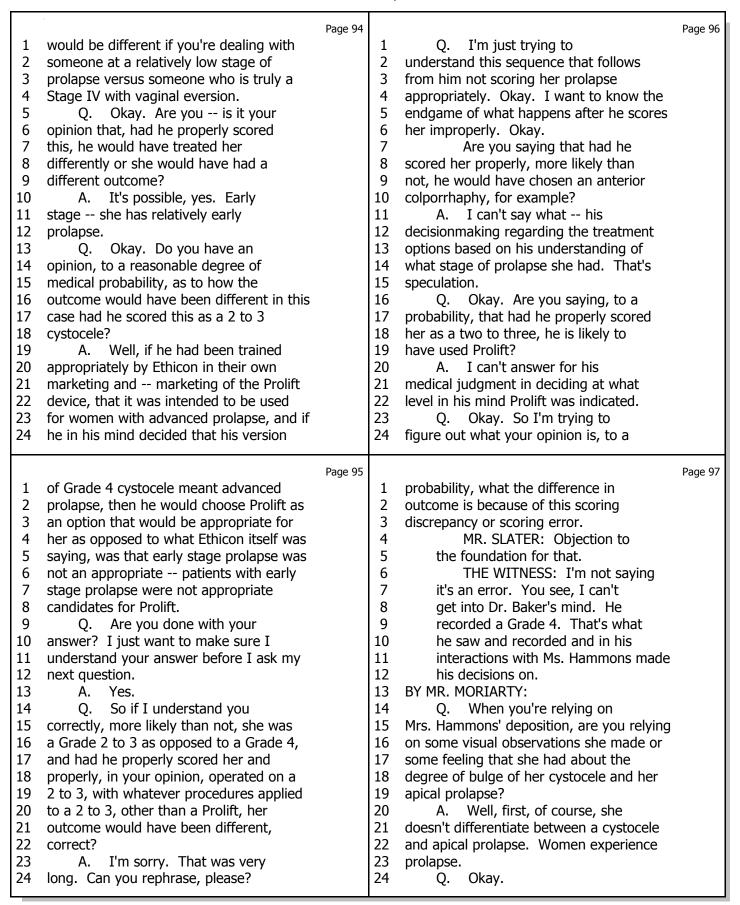
		Page 74			Page 76
1	A. So I'm still trying to		1	BY MR. MORIARTY:	
2	understand your question. Does this		2	Q. Okay. So you don't have	
3	apply to what Dr. Baker had to offer		3	enough information to judge his	
4	Mrs. Hammons?		4	, ,	
				qualifications or his skill as a surgeon.	
5	Q. Yes.		5	True?	
6	A. Okay.		6	A. That's true.	
7	Q. Or do you think he should		7	Q. Okay. Putting aside issues	
8	have referred her immediately somewhere		8	regarding the use of mesh, did the	
9	else for treatment?		9	vaginal approach to treating	
10	A. It's Dr. Baker's judgment		10	Mrs. Hammons' pelvic organ prolapse have	
11	that he was qualified to provide a		11	a benefit over an abdominal approach of	
12	prolapse repair for her.		12	fewer wound complications, less	
13	Q. Okay. And is it your		13	postoperative pain, a shorter hospital	
14	opinion, based on everything you know		14	stay, and less cost?	
	, , ,			• •	
15	about his qualifications, that he was		15	MR. SLATER: Objection.	
16	qualified to perform a vaginal		16	Foundation.	
17	hysterectomy combined with, say, an		17	THE WITNESS: That's been	
18	anterior colporrhaphy?		18	reported in the literature. As to	
19	A. And and only those		19	hospital stay and cost, those	
20	procedures in treatment of her prolapse?		20	hospital stay varies so much with	
21	Q. I just used it as an		21	individual practice, and cost	
22	example. Was he qualified to do at least		22	depends on so many other	
23	that?		23	variables, but it has been	
24	A. I I don't know. Clearly		24	reported, yes.	
				, , ,	
		Page 75			Page 77
1	he thought so.	Page 75	1	BY MR. MORIARTY:	Page 77
1 2	he thought so. O. Okay. Is it your opinion	Page 75	_	BY MR. MORIARTY: O. Okay. In 2009, was it still	Page 77
2	Q. Okay. Is it your opinion	Page 75	2	Q. Okay. In 2009, was it still	Page 77
2 3	Q. Okay. Is it your opinion that Dr. Baker was qualified to treat	Page 75	2	Q. Okay. In 2009, was it still controversial about whether the abdominal	Page 77
2 3 4	Q. Okay. Is it your opinion that Dr. Baker was qualified to treat Mrs. Hammons for the problems that she	Page 75	2 3 4	Q. Okay. In 2009, was it still controversial about whether the abdominal or vaginal route was more effective or	Page 77
2 3 4 5	Q. Okay. Is it your opinion that Dr. Baker was qualified to treat Mrs. Hammons for the problems that she had in March and May of 2009?	Page 75	2 3 4 5	Q. Okay. In 2009, was it still controversial about whether the abdominal or vaginal route was more effective or durable	Page 77
2 3 4 5 6	Q. Okay. Is it your opinion that Dr. Baker was qualified to treat Mrs. Hammons for the problems that she had in March and May of 2009? A. I'm sorry. I'm struggling.	Page 75	2 3 4 5 6	Q. Okay. In 2009, was it still controversial about whether the abdominal or vaginal route was more effective or durable MR. SLATER: Objection.	Page 77
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		Page 78			Page 80
1	lacks foundation, and multiple		1	Q. Either. He's going to	
2	parts to that.		2	repair them both, theoretically, right?	
3	THE WITNESS: I'm sorry.		3	A. An anterior colporrhaphy and	
4	Okay. So any of the vaginal		4	abdominal sacrocolpopexy are not	
5	operations for uterine or apical		5	comparable. They have totally different	
	·			• • • • • • • • • • • • • • • • • • • •	
6	suspension?		6	indications.	
7	BY MR. MORIARTY:		7	Q. Okay. If Dr well, let's	
8	Q. Okay. Let me let me just		8	just deal with the apical. Is the apical	
9	make sure you understand the context in		9	prolapse the uterine prolapse?	
10	which I'm asking this.		10	A. Those terms are	
11	Dr. Baker had several		11	interchangeably used, yes.	
12	surgical options available to him,		12	Q. And at the time of surgery,	
13	correct?		13	would you have expected Dr. Baker to	
14	A. Yes.		14	address the apex of the vagina because of	
15	Q. Or he could have referred		15	the apical prolapse?	
16	the patient if he didn't feel comfortable		16	A. Yes.	
17	•		17		
	doing what he thought was the most			Q. All right. In other words,	
18	appropriate, correct?		18	when Dr. Baker removed the uterus, that	
19	A. Yes.		19	isn't necessarily going to take care of	
20	Q. Okay. So if he was just		20	the apical prolapse; is that correct?	
21	comparing abdominal approaches with		21	A. Correct. It does not.	
22	transvaginal approaches, in 2009, was		22	(Document marked for	
23	there still controversy about which		23	identification as Exhibit	
24	approach to the surgery was had better		24	Weber-6.)	
—					
		Page 79			Page 81
1	efficacy or durability?	Page 79	1	BY MR. MORIARTY:	Page 81
2	efficacy or durability? A. I can't answer that without	Page 79	2	Q. I've handed you Exhibit 6.	Page 81
		Page 79			Page 81
2	A. I can't answer that without knowing exactly what procedures you're	Page 79	2	Q. I've handed you Exhibit 6.	Page 81
2 3 4	A. I can't answer that without knowing exactly what procedures you're referring to.	Page 79	2	Q. I've handed you Exhibit 6. Is this Dr. Baker's May 5, 2009,	Page 81
2 3 4 5	A. I can't answer that without knowing exactly what procedures you're referring to. Q. Okay. Let's just take	Page 79	2 3 4 5	Q. I've handed you Exhibit 6. Is this Dr. Baker's May 5, 2009, operative report? A. Yes.	Page 81
2 3 4 5 6	A. I can't answer that without knowing exactly what procedures you're referring to. Q. Okay. Let's just take anterior colporrhaphy versus an abdominal	Page 79	2 3 4 5 6	Q. I've handed you Exhibit 6. Is this Dr. Baker's May 5, 2009, operative report? A. Yes. Q. Does he describe a repair of	Page 81
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	•	Page 82			Page 84
1	Dr. Heit, yes.	5 - 1	1	higher, but to give you a number, to say	
2	Q. Okay. But not by the time		2	X versus Y, the literature just does not	
3	she saw Dr. Lackey in the fall of 2009?		3	support that.	
4	A. Can I refer to his notes? I		4	Q. Can you quantify how much	
5	know he diagnosed her with a rectocele.		5	higher the risk is with Prolift than it	
6				_	
7	<u> </u>		6	is with any of the other any of the	
	review his notes or your report regarding		7	three native tissue procedures that we	
8	his notes.		8	were talking about?	
9	A. Right. So Dr. Lackey		9	A. Well, the distinction not	
10	described a Grade 2 to 3 rectocele. He		10	only applies to the number, but to the	
11	did not specifically describe anything		11	nature of the condition, such that when a	
12	related to the apex.		12	woman experiences dyspareunia after a	
13	Q. Okay. So if Dr. Baker had		13	native tissue repair, it's treatable, the	
14	chosen to perform vaginal hysterectomy		14	scar softens, it sometimes goes away by	
15	plus anterior colporrhaphy, what was the		15	itself, versus the dyspareunia that	
16	risk of dyspareunia from that combination		16	occurs after Prolift, which is related to	
17	procedure?		17	factors like mesh contraction, vaginal	
18	MR. SLATER: Objection.		18	anatomic distortion, that Ethicon has all	
19	Ambiguous, compound, lacks		19	over their documents that are difficult,	
20	foundation.		20	if not impossible, to treat.	
21	THE WITNESS: We discussed		21	·	
				So you have two totally	
22	this earlier, I think, as to		22	different mechanisms of dyspareunia	
23	what's reported in the literature		23	affecting native tissue repairs versus	
24	as far as being able to pin that		24	Prolift mesh.	
		Dago 83			Dage 95
1	down to a number. And for all the	Page 83	1	O Okay And Lunderstand	Page 85
1	down to a number. And for all the	Page 83	1	Q. Okay. And I understand	Page 85
2	same reasons that I described	Page 83	2	that's your opinion. But what I want to	Page 85
2	same reasons that I described before, it's not possible.	Page 83	2	that's your opinion. But what I want to stick with right now is the specific	Page 85
2 3 4	same reasons that I described before, it's not possible. BY MR. MORIARTY:	Page 83	2 3 4	that's your opinion. But what I want to stick with right now is the specific question of whether you can quantify how	Page 85
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		Page 86			Page 88
1	And after Prolift, it does		1	A. Yes.	
2	occur. And that's exactly what		2	Q. Okay. In 2009, when	
3	happened to Mrs. Hammons.		3	Dr. Lackey operated on Mrs. Hammons, was	s
4	BY MR. MORIARTY:		4	dyspareunia a risk of the native tissue	
5	Q. And do you know the rate at		5	posterior repair that he performed?	
	•			·	
6	which apareunia occurs with Prolift?		6	MR. SLATER: Objection.	
7	A. No. If Ethicon had studied		7	THE WITNESS: In general,	
8	this before they put it on the market, I		8	the type of repair he performed is	
9	may be able to answer your question, or		9	a risk for dyspareunia.	
10	they would become so horrified by the		10	BY MR. MORIARTY:	
11	numbers they would decide not to put it		11	Q. Okay. Do you know or do you	
12	on the market altogether, which would be		12	have an opinion about what the the	
13	my opinion.		13	rate of dyspareunia is following that	
14	Q. Okay. I'm just trying to		14	type of posterior repair?	
15	ask about rates. Okay. So with the		15	A. No. Again, the same	
16	three native tissue repairs, you say		16	problems we've been talking about.	
17	• • • •		17	•	
	apareunia never happened in your			Q. Now, I want to be clear on	
18	experience. Is it reported in the		18	this rate of dyspareunia issue. There	
19	literature?		19	are rates published in the literature,	
20	A. I've never seen it.		20	correct?	
21	Q. Okay. But you say it does		21	A. Yes.	
22	happen with vaginal hysterectomy plus		22	Q. Okay. So you or I could	
23	Prolift, but you don't know the rate at		23	read a bunch of medical literature and	
24	which it happens, correct?		24	probably lay out 50 studies on this table	
		Page 87			Page 89
1	A. That's correct.	Page 87	1	that talk about the rates from various	Page 89
		Page 87	1 2		Page 89
2	Q. Okay. Going back,	Page 87	2	studies, correct?	Page 89
2	Q. Okay. Going back, originally, can you quantify for me,	Page 87	2 3	studies, correct? A. Yes.	Page 89
2 3 4	Q. Okay. Going back, originally, can you quantify for me, based on your experience or the published	Page 87	2 3 4	studies, correct? A. Yes. Q. Okay. In 2009, was there a	Page 89
2 3 4 5	Q. Okay. Going back, originally, can you quantify for me, based on your experience or the published literature, how much higher the	Page 87	2 3 4 5	studies, correct? A. Yes. Q. Okay. In 2009, was there a surgical approach to pelvic organ	Page 89
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		Page 90			Page 92
1	mesh that was a safe alternative in your		1	Q. And on the let's go to	
2	opinion.		2	the last two pages. Under the female	
3	A. Alternative to what?		3	exam, he has Grade 4 cystocele. Do you	
4	Q. Prolift.		4	see that?	
5	A. Yes.		5	A. Yes.	
6	Q. And that would be what?		6	Q. And then cervix, it just	
7	A. An abdominal sacrocolpopexy.		7	says prolapse without the S or without	
8	Q. Okay. And to do that		8	the E I'm sorry correct?	
9	procedure involving mesh, you're using		9	A. Yes.	
10	something like Gynemesh PS		10		
	<u> </u>			, , ,	
11	MR. SLATER: Objection.		11	have a POP-Q score in here, but do you	
12	BY MR. MORIARTY:		12	have any reason to disagree that she had	
13	Q or similar? In other		13	a Grade 4 cystocele at the time of this	
14	words, a sheet of mesh, not a mesh kit,		14	exam?	
15	correct?		15	A. Yes.	
16	A. Correct.		16	Q. And what what, in your	
17	Q. And when you were operating		17	opinion, was her degree of cystocele as	
18	as a surgeon, did you do abdominal		18	of March of 2009?	
19	sacrocolpopexies?		19	A. Based on her deposition	
20	A. Yes.		20	testimony, I would say possibly Stage II	
21	Q. Did you use mesh in any of		21	or early Stage III, using the POP-Q	
22	those procedures?		22	system.	
23	A. Yes.		23	Q. And is the basis for that	
24	Q. Okay. In the beginning of		24	opinion solely Mrs. Hammons' deposition?	
47	Q. Okay. In the beginning of		27	opinion solely Mrs. Hammons deposition:	
		Page 91			Page 93
1	the CARE study, were you one of the	Page 91	1	A. Yes	Page 93
1 2	the CARE study, were you one of the	Page 91	1 2	A. Yes.	Page 93
2	operating surgeons, or were you a	Page 91	2	Q. Okay. And whether it was a	Page 93
2 3	operating surgeons, or were you a consultant to the design of the trial?	Page 91	2	Q. Okay. And whether it was a Grade 4 or a Grade 2 to 3, does that make	Page 93
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		Page 98	_		Page 100
1	A. And to my understanding of		1	Q. Well, when you say in your	
2	her deposition testimony, it was a		2	answer that you just gave that it wasn't	
3	description of what she felt that she		3	treated adequately, you're talking about	
4	described in deposition.		4	the failure to do the apical repair,	
5	Q. Okay. And what you're		5	correct?	
6	saying is what she felt, in your opinion,		6	A. Yes.	
7	is inconsistent with a Grade 4 cystocele?		7	Q. Okay. That put her at	
8	A. Yes.		8	higher risk of recurrence no matter which	
9	Q. Okay. Had Dr. Baker chosen		9	technique he chose, correct?	
10	anterior colporrhaphy to repair her		10	A. Yes, probably.	
11	cystocele instead of Prolift, is it		11	Q. Okay. Had Dr. Baker chosen	
12	likely that she would have had a		12	the combination of vaginal hysterectomy,	
13	recurrence of her cystocele by now?		13	no apical repair, but used anterior	
14	A. So here, I'm going to ask		14	colporrhaphy, is it likely that she still	
15	you to are you speaking about a		15	would have suffered a prolapse in the	
16	general patient who only has an anterior		16	posterior in other words, a	
17	cystocele, or Mrs. Hammons and her		17	rectocele in 2009 or early 2010?	
18	situation?		18	A. I can't answer that. That	
19	Q. Okay. Let me ask it again.		19	would be guessing.	
20	We know that she had a		20	Q. Okay. Are you going to	
21	vaginal hysterectomy, anterior Prolift,		21	render any opinions in this case that the	
22	and no apical repair at the time of the		22	anterior Prolift was the cause of her	
23	May 2009 procedure, correct?		23	rectocele or enterocele that were	
24	A. Correct.		24	detected in the fall of 2009?	
۲ ۱	A. Correcti		۷ ا	detected in the fail of 2009:	
		Page 99			Page 101
1	O. Okay. Had he chosen yaginal	Page 99	1	A. No.	Page 101
1 2	Q. Okay. Had he chosen vaginal hysterectomy, no apical repair, and an	Page 99	1 2	A. No. O. Okay. I want to get back to	Page 101
2	hysterectomy, no apical repair, and an	Page 99	2	Q. Okay. I want to get back to	Page 101
2	hysterectomy, no apical repair, and an anterior colporrhaphy for the cystocele,	Page 99	2	Q. Okay. I want to get back to this exhibit that I think that you have	Page 101
2 3 4	hysterectomy, no apical repair, and an anterior colporrhaphy for the cystocele, is it likely that by now she would have	Page 99	2 3 4	Q. Okay. I want to get back to this exhibit that I think that you have in your left hand. Is that 7, the office	Page 101
2 3 4 5	hysterectomy, no apical repair, and an anterior colporrhaphy for the cystocele, is it likely that by now she would have had a recurrence of her cystocele?	Page 99	2 3 4 5	Q. Okay. I want to get back to this exhibit that I think that you have in your left hand. Is that 7, the office visit?	Page 101
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		Page 106			Page 108
1	answer, because there's an		1	address the prolapse in addition to the	
2	agreement on a national level of		2	vaginal hysterectomy in 2009?	
3	what the scope of this deposition		3	 A. Are we speaking in general 	
4	would be.		4	terms, or are we speaking specifically?	
5	You asked me to inform you		5	Q. I'll rephrase. Had	
6	if you went beyond what you were		6	Dr. Baker chosen vaginal hysterectomy	
7	supposed to be doing. You just		7	with anterior colporrhaphy, was stress	
8	• • • • • • • • • • • • • • • • • • • •		8		
	did. I've been very, very			urinary incontinence still a potential	
9	patient. You've asked a lot of		9	risk of that procedure?	
10	general questions. You've asked a		10	A. A small risk, yes.	
11	lot of things that go beyond this		11	Q. Okay. Would the same be	
12	case. I've tried to be patient.		12	true if he had chosen vaginal	
13	This question is point blank		13	hysterectomy plus paravaginal repair?	
14	outside of the scope of our		14	A. Yes.	
15	agreement.		15	Q. And would other forms of	
16	Please go to your next		16	incontinence, such as urge incontinence,	
17	question and focus on the patient.		17	also have been potential risks, had he	
18	MR. MORIARTY: And I believe		18	chosen those procedures?	
19			19	•	
	that as a				
20	MR. SLATER: I don't want to		20	general, yes.	
21	dispute it. Please go to your		21	Q. Okay. Do you have some	
22	next question.		22	opinion that specifically gives I'm	
23	MR. MORIARTY: as a		23	sorry. Let me withdraw that.	
24	free-thinking adult and at one		24	Is it your opinion that the	
		Page 107			Page 109
1	noint a licensed physician, she is	Page 107	1	risk of SUI following Prolift combined	Page 109
1	point a licensed physician, she is	Page 107	1	risk of SUI following Prolift combined	Page 109
2	entitled to make the decision	Page 107	2	with vaginal hysterectomy is higher than	Page 109
2 3	entitled to make the decision about	Page 107	2	with vaginal hysterectomy is higher than it would have been with anterior	Page 109
2 3 4	entitled to make the decision about MR. SLATER: She's not.	Page 107	2 3 4	with vaginal hysterectomy is higher than it would have been with anterior colporrhaphy or PVR?	Page 109
2 3 4 5	entitled to make the decision about MR. SLATER: She's not. MR. MORIARTY: whether	Page 107	2 3 4 5	with vaginal hysterectomy is higher than it would have been with anterior colporrhaphy or PVR? A. In general. Not so we're	Page 109
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	entitled to make the decision about MR. SLATER: She's not. MR. MORIARTY: whether she answers the question or not. MR. SLATER: She's not. Because this is a decision and agreement that goes beyond one question at one deposition. MR. MORIARTY: Okay. MR. SLATER: You know better than that. Please move on. You're going to let me joust with your experts and they're going to make the decision whether to answer questions and you're going to stay out of it? I doubt it. Let's just live in reality. Please move on. BY MR. MORIARTY:	Page 107	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	with vaginal hysterectomy is higher than it would have been with anterior colporrhaphy or PVR? A. In general. Not so we're not speaking specifically of Mrs. Hammons necessarily. In general. Q. Well, sure. A. Yes. That's been reported. Q. Okay. And what's the statistical difference between the risk of SUI with Prolift versus native tissue repair? A. I would need to refer to the specific articles to give you an absolute number. Q. Okay. So specifically for Mrs. Hammons, is it your opinion that choosing the Prolift as opposed to another native tissue repair of her cystocele increased her risk of SUI or	Page 109

				1
	Page 110			Page 112
1	Compound. Foundation.	1	are general questions about what	
2	THE WITNESS: I believe the	2	documents might have been	
3	literature supports any form of	3	available in the world.	
4	incontinence after a Prolift	4	I'll see what you ask, but I	
5	procedure is higher than native	5	really think this goes beyond the	
6	tissue repairs.	6	deposition.	
7	BY MR. MORIARTY:	7	BY MR. MORIARTY:	
8	Q. But standing here today	8	Q. Doctor, I handed you what's	
9	sitting here today, you can't tell me	9	been marked Exhibit is it 9?	
10	which article or what that rate is?	10	A. Yes.	
11		11		
	MR. SLATER: Objection		(Document marked for	
12	THE WITNESS: No, I can't	12	identification as Exhibit	
13	pull that off the top of my head.	13	Weber-9.)	
14	BY MR. MORIARTY:	14	MR. SLATER: Do you have a	
15	Q. Okay. I want to talk about	15	copy for me?	
16	what information Dr. Baker would have had	16	MR. MORIARTY: I'm sorry. I	
17	available to him.	17	don't. But I'll I can give you	
18	We've been going about an	18	this	
19	hour since the last break. Are you good	19	MR. SLATER: Do you want to	
20	to keep going?	20	make a proffer as to what it is?	
21	MR. SLATER: I could use a	21	MR. MORIARTY: I'm going to	
22	break, actually.	22	ask her.	
23	THE WITNESS: Yeah, this	23	BY MR. MORIARTY:	
24	would be a good time. This is a	24	Q. Doctor, do you see the	
	Page 111			Page 113
1	good time for a break.	1	fuchsia sticker at the bottom?	Page 113
2	good time for a break. (Short break.)	2	A. Yes.	Page 113
2 3	good time for a break. (Short break.) BY MR. MORIARTY:	2	A. Yes.Q. Okay. This was marked as	Page 113
2 3 4	good time for a break. (Short break.) BY MR. MORIARTY: Q. I want to ask you some	2 3 4	A. Yes. Q. Okay. This was marked as Exhibit 6 in Dr. Baker's deposition.	Page 113
2 3 4 5	good time for a break. (Short break.) BY MR. MORIARTY: Q. I want to ask you some questions about sources of information	2 3 4 5	A. Yes. Q. Okay. This was marked as Exhibit 6 in Dr. Baker's deposition. Okay.	Page 113
2 3 4 5 6	good time for a break. (Short break.) BY MR. MORIARTY: Q. I want to ask you some questions about sources of information that would likely have been available to	2 3 4 5 6	A. Yes. Q. Okay. This was marked as Exhibit 6 in Dr. Baker's deposition. Okay. A. Okay.	Page 113
2 3 4 5	good time for a break. (Short break.) BY MR. MORIARTY: Q. I want to ask you some questions about sources of information	2 3 4 5	A. Yes. Q. Okay. This was marked as Exhibit 6 in Dr. Baker's deposition. Okay.	Page 113
2 3 4 5 6 7 8	good time for a break. (Short break.) BY MR. MORIARTY: Q. I want to ask you some questions about sources of information that would likely have been available to Dr. Baker at the time he talked to Mrs. Hammons in 2009.	2 3 4 5 6	A. Yes. Q. Okay. This was marked as Exhibit 6 in Dr. Baker's deposition. Okay. A. Okay. Q. All right. So, now, whatever he said is what he said. But if	Page 113
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	•	Page 114		Pa	age 116
1	A. I'm sorry. I lost you in		1	want.	
2	the middle of that question.		2	Q. If the evidence is that	
3	Q. Okay. Patient brochures, to		3	Dr. Baker had this document available to	
4	the extent that a doctor had one		4	him	
5	available and to the extent that this was		5	A. That specific document?	
6	available, if it was available to		6	Q. Yeah. It was marked in his	
7	Dr. Baker, this is the kind of thing that		7	deposition, and he was asked about it.	
8	he and his patient could use as at least		8	MR. SLATER: What does that	
9	one source of information to discuss		9	prove? That's a misleading	
10	risks and complications of the procedure		10	question, deliberately misleading.	
11	that he proposed, correct?		11	You know better than that.	
12	A. Any of his patients, not		12	BY MR. MORIARTY:	
13	Mrs. Hammons in particular?		13	Q. All I want to know is if	
14	Q. Including Mrs. Hammons.		14	this was available to Dr. Baker and	
15	MR. SLATER: Objection.		15	Mrs. Hammons in May of March or May of	
16	THE WITNESS: Well, they're		16	2009, this is the kind of information	
17	different.		17	that was available to give them some	
18			18	information about Prolift and its risks.	
19	MR. SLATER: Same objection I made before. It's a patient		19	MR. SLATER: Objection.	
20	brochure. Yes, it is.		20	BY MR. MORIARTY:	
21	BY MR. MORIARTY:		21	Q. Yes or no?	
22	Q. Okay.		22	MR. SLATER: Same series of	
23	A. Is it something that		23	objections. Your question is, if	
24	Mrs. Hammons would have seen?		24	it was available, would it have	
- '	riis. Hailinoiis would have seen:		21	it was available, would it have	
		Page 115		Pa	age 117
1	O. Well, that's something that	Page 115	1		age 117
1 2	Q. Well, that's something that a jury will decide or a judge will decide	Page 115	1 2	been available? Okay. I object	age 117
2	a jury will decide or a judge will decide	Page 115	2	been available? Okay. I object to it for all the reasons I said	age 117
2 3	a jury will decide or a judge will decide if this doesn't get proper foundation.	Page 115	2	been available? Okay. I object to it for all the reasons I said before.	age 117
2 3 4	a jury will decide or a judge will decide if this doesn't get proper foundation. The question is, if this was available to	Page 115	2 3 4	been available? Okay. I object to it for all the reasons I said before. You can answer.	age 117
2 3 4 5	a jury will decide or a judge will decide if this doesn't get proper foundation. The question is, if this was available to Dr. Baker, is this in general the kind of	Page 115	2 3 4 5	been available? Okay. I object to it for all the reasons I said before. You can answer. THE WITNESS: If it was	age 117
2 3 4 5 6	a jury will decide or a judge will decide if this doesn't get proper foundation. The question is, if this was available to Dr. Baker, is this in general the kind of information that he would have had	Page 115	2 3 4 5 6	been available? Okay. I object to it for all the reasons I said before. You can answer. THE WITNESS: If it was available, the kind of	age 117
2 3 4 5 6 7	a jury will decide or a judge will decide if this doesn't get proper foundation. The question is, if this was available to Dr. Baker, is this in general the kind of information that he would have had available to discuss with the patient,	Page 115	2 3 4 5 6 7	been available? Okay. I object to it for all the reasons I said before. You can answer. THE WITNESS: If it was available, the kind of information, not the exact	age 117
2 3 4 5 6 7 8	a jury will decide or a judge will decide if this doesn't get proper foundation. The question is, if this was available to Dr. Baker, is this in general the kind of information that he would have had available to discuss with the patient, including like Mrs. Hammons	Page 115	2 3 4 5 6 7 8	been available? Okay. I object to it for all the reasons I said before. You can answer. THE WITNESS: If it was available, the kind of information, not the exact information, but the kind of	age 117
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	a jury will decide or a judge will decide if this doesn't get proper foundation. The question is, if this was available to Dr. Baker, is this in general the kind of information that he would have had available to discuss with the patient, including like Mrs. Hammons MR. SLATER: Objection to the form of the question. BY MR. MORIARTY: Q in May of 2009? MR. SLATER: Objection to the form of the question. No foundation. Do you want to make a proffer that it was given to him, which you know you can't do? THE WITNESS: It's a patient brochure. There were different patient brochures available at different times.	Page 115	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	been available? Okay. I object to it for all the reasons I said before. You can answer. THE WITNESS: If it was available, the kind of information, not the exact information but the kind of information would be something that Dr. Baker would have available to him. (Document marked for identification as Exhibit Weber-10.) BY MR. MORIARTY: Q. Exhibit 10. (Whereupon, a discussion was held off the record.) BY MR. MORIARTY: Q. Doctor, how did you become available how did you become aware of	age 117

	- 1	Page 118	_		Page 120
1	Please ask about the Hammons		1	available to Dr. Baker by virtue of his	
2	case.		2	membership in the American College of	
3	Next question.		3	Obstetrics and Gynecology, the D.O.	
4	BY MR. MORIARTY:		4	division, osteopathic?	
5	Q. Was the 2008 FDA notice		5	MR. SLATER: Objection.	
6	reasonably available to operating		6	THE WITNESS: Yes.	
7	surgeons in 2009?		7	BY MR. MORIARTY:	
8	MR. SLATER: Objection to		8	Q. Handing you Exhibit 12.	
9	the form of the question.		9	(Document marked for	
10	You can answer.		10	identification as Exhibit	
11	THE WITNESS: Yes.		11	Weber-12.)	
12	BY MR. MORIARTY:		12	BY MR. MORIARTY:	
13			13		
	Q. To the best of your			Q. Have you ever seen this	
14	knowledge, was there published		14	document before?	
15	information available about dyspareunia		15	A. Yes.	
16	rates with pelvic mesh kits by May of		16	Q. Okay. This is Dr. Lowman's	
17	2009?		17	paper entitled "Does the Prolift System	
18	MR. SLATER: Objection.		18	Cause Dyspareunia?"	
19	Don't answer the question. It's a		19	Is that the name of it?	
20	general question. It's not not		20	A. Yes.	
21	geared to this case. Please move		21	Q. Was it published in 2008?	
22	on.		22	A. Yes.	
23	(Document marked for		23	Q. Was it published in the	
24	identification as Exhibit		24	American Journal of Obstetrics &	
		Page 119			Page 121
1	Weber-11.)	Page 119	1	Gynecology?	Page 121
1 2	Weber-11.) BY MR. MORIARTY:	Page 119	1 2	Gynecology? A. Yes.	Page 121
2	BY MR. MORIARTY:	Page 119			Page 121
2 3	BY MR. MORIARTY: Q. I'm handing you Exhibit 11.	Page 119	2	A. Yes. Q. Would this information have	Page 121
2 3 4	BY MR. MORIARTY: Q. I'm handing you Exhibit 11. MR. SLATER: Are you	Page 119	2 3 4	A. Yes. Q. Would this information have been available to you when it was	Page 121
2 3 4 5	BY MR. MORIARTY: Q. I'm handing you Exhibit 11. MR. SLATER: Are you ignoring my objection?	Page 119	2 3 4 5	A. Yes. Q. Would this information have been available to you when it was published in 2008?	Page 121
2 3 4 5 6	BY MR. MORIARTY: Q. I'm handing you Exhibit 11. MR. SLATER: Are you ignoring my objection? MR. MORIARTY: No. I'm	Page 119	2 3 4 5 6	A. Yes. Q. Would this information have been available to you when it was published in 2008? A. Yes.	Page 121
2 3 4 5 6 7	BY MR. MORIARTY: Q. I'm handing you Exhibit 11. MR. SLATER: Are you ignoring my objection? MR. MORIARTY: No. I'm going to ask a more specific	Page 119	2 3 4 5 6 7	A. Yes. Q. Would this information have been available to you when it was published in 2008? A. Yes. Q. Was this kind of information	Page 121
2 3 4 5 6 7 8	BY MR. MORIARTY: Q. I'm handing you Exhibit 11. MR. SLATER: Are you ignoring my objection? MR. MORIARTY: No. I'm going to ask a more specific question.	Page 119	2 3 4 5 6 7 8	A. Yes. Q. Would this information have been available to you when it was published in 2008? A. Yes. Q. Was this kind of information generally available to doctors who were	Page 121
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	Page 122			Page 124
1	if "collaborate" is the right word. Were	1	you about an opinion that you wrote at	
2	you involved in the drafting of this	2	Page Pages 9 through 10 of your report	
3	document?	3	in this case, Exhibit 1. It's about this	
4	A. Yes.	4	training issue.	
5	Q. Would Dr. Baker, because of	5	A. Yes.	
6	his membership in ACOOG, have been aware	6	Q. Do you have that there?	
7	of this kind of information when it was	7	Now, Doctor, I don't know	
8	published?	8	the extent to which you have been	
9	MR. SLATER: Objection.	9	questioned about training issues that you	
10	THE WITNESS: This was	10	wrote in your primary report, Exhibit 2.	
11	published in The Green Journal	11	Okay. So I'm sure Mr. Slater will tell	
12	which he said he received.	12	me if I'm asking questions that you've	
13	BY MR. MORIARTY:	13	<u> </u>	
			already been asked about, but I need to	
14	Q. And I know at one point	14	understand this	
15	there was an ACOG bulletin about which	15	MR. SLATER: Counsel, if	
16	you wrote a letter to the editor, and	16	your questions are specific to	
17	there was an exchange back and forth. Is	17	this case, as I've been doing, I'm	
18	this the ACOG bulletin that was the	18	not going to object. If you're	
19	subject of that letter to the editor?	19	going to ask general questions on	
20	A. No. This is the revised.	20	a report that's been out for three	
21	Q. Okay. That's all I had to	21	and a half years, a little over	
22	ask you about that.	22	three years, you know, I'd rather	
23	MR. SLATER: Oh, it's the	23	you not do it, because I'm going	
24	same bulletin. It's just the	24	to have to keep stopping her from	
	Page 123			Page 125
1	Page 123	1	answering	Page 125
1 2	revised version.	1 2	answering. We have an agreement that	Page 125
2	revised version. THE WITNESS: Correct.	2	We have an agreement that	Page 125
2	revised version. THE WITNESS: Correct. BY MR. MORIARTY:	2	We have an agreement that this is supposed to be a	Page 125
2 3 4	revised version. THE WITNESS: Correct. BY MR. MORIARTY: Q. Well, when you say "revised	2 3 4	We have an agreement that this is supposed to be a case-specific deposition. She's	Page 125
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2 3 4 5 6	revised version. THE WITNESS: Correct. BY MR. MORIARTY: Q. Well, when you say "revised version," what do you mean? A. I mean that this was	2 3 4 5 6	We have an agreement that this is supposed to be a case-specific deposition. She's been deposed. And more important, Ethicon lawyers have had the	Page 125
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		Page 126			Page 128
1	Dr. Baker is to select him for	-	1	didn't have to seek the permission of a	
2	training and lead him to believe		2	device company every time he did that,	
3	that he is qualified to perform		3	did he?	
4	the Prolift surgeries, when,		4	A. No.	
5	according to their own internal		5	Q. Do you know what percentage	
6	standards, they were looking		6	of surgeons perform Prolift, for example,	
7	for they were targeting doctors		7	who never underwent the Ethicon-offered	
8	who had high volume, were		8	training?	
	,		9	5	
9	experienced pelvic floor surgeons.		_	A. No.	
10	According to those criteria, he		10	Q. Even had Dr. Baker not	
11	does he does not meet those		11	undergone the training, could he have	
12	criteria.		12	still used and prescribed the Prolift	
13	BY MR. MORIARTY:		13	device?	
14	Q. Okay. I understand that's		14	A. My understanding of	
15	the opinion in your report. I'm asking a		15	Dr. Baker's testimony was that he would	
16	different question.		16	not go rogue and use devices without that	
17	When it comes to Dr. Baker's		17	kind of training. The problem with the	
18	decision about what drugs to prescribe or		18	training was that first it led him to	
19	devices to prescribe for his patients,		19	believe that he was qualified, and	
20	it's not the drug or device manufacturers		20	provided him with inaccurate and	
21	that control whether he does those things		21	misleading information about how what	
22	or doesn't do those things, correct?		22	outcomes to expect from his patients,	
23	MR. SLATER: Objection. You		23	which he then provided to his patients,	
24	can answer.		24	believing it to be true.	
				•	
		Page 127			Page 129
1	THE WITNESS: He was	Page 127	1	Q. Okay. To the best of your	Page 129
1 2	THE WITNESS: He was approached by sales	Page 127	1 2	Q. Okay. To the best of your understanding, there's no requirement by	Page 129
2	approached by sales	Page 127		understanding, there's no requirement by	Page 129
2	approached by sales representatives and told he was	Page 127	2	understanding, there's no requirement by Indiana state law, Indiana regulation,	Page 129
2 3 4	approached by sales representatives and told he was qualified to perform this	Page 127	2 3 4	understanding, there's no requirement by Indiana state law, Indiana regulation, FDA regulation, anything that would	Page 129
2 3 4 5	approached by sales representatives and told he was qualified to perform this procedure and underwent to	Page 127	2 3 4 5	understanding, there's no requirement by Indiana state law, Indiana regulation, FDA regulation, anything that would legally apply to Dr. Baker that would	Page 129
2 3 4 5 6	approached by sales representatives and told he was qualified to perform this procedure and underwent to perform the Prolift procedures,	Page 127	2 3 4 5 6	understanding, there's no requirement by Indiana state law, Indiana regulation, FDA regulation, anything that would legally apply to Dr. Baker that would require him to undergo Ethicon training;	Page 129
2 3 4 5 6 7	approached by sales representatives and told he was qualified to perform this procedure and underwent to perform the Prolift procedures, and then underwent Ethicon's	Page 127	2 3 4 5 6 7	understanding, there's no requirement by Indiana state law, Indiana regulation, FDA regulation, anything that would legally apply to Dr. Baker that would require him to undergo Ethicon training; is that true?	Page 129
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2 A Well, they referred to — 4 those guidelines shat you point out do 7 refer to doctors having experience with 8 treating women with prolapse, so that 9 there — those guidelines do exist and, 10 as guidelines, offer some guidelines — 11 I'm sorry. 12 They help define who's most 13 qualified based on experience and 14 training to perform reconstructive 15 surgery. 16 Q. Do those guidelines — 17 volume limits, X number of procedures per 18 month or year? 19 A. No, not those guidelines. 21 In the literature, there are studies of 22 to perform certain difficult — 23 technically difficult procedures. But, 24 no, those numbers are not in the Page 131 1 guidelines. 2 Q. Okay. And just because 3 Dr. Baker lives and practices surgery in 4 a rural part of southern Indiana doesn't 5 automatically mean that he's not a 1 skilled surgeon, true? 2 A. His volume of prolapse 1 surgerise is very low. 2 MR. SLATER: Dr. Weber, the 1 question was just because he's in 1 rural Indiana. That's all that 1 rural Indiana. That's all that 1 rural Indiana. That's all that 1 rural fundian. That's all that 2 was asked, right? 3 MR. MCRIARTY: 4 O, Okay. And tell me what, in 5 or the fundiance of the way mesh 5 outorious doctors the way mesh 6 ontracts during healing — for example, 6 rorread and the vindiance of the way mesh 6 ontracts during healing — for example, 7 A. Because of the way mesh 8 contracts during healing — for example, 8 rural part of the meinal of the hernia	1			A. I think they're	
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		Page 134	_		Page 136
1	for the kinds of contractions that occur.		1	itself, like the tension-free aspects and	
2	In		2	how he would could have been trained	
3	Q. Okay. I don't mean to cut		3	or not trained on that, because there's	
4	you off. What I'm trying to get at with		4	no agreed-upon definition of tension.	
5	this particular question and I		5	But as I said, during the	- 1
6	understand that you think that the use of		6	operation, she did not experience any	
7	transvaginal mesh kits is defective and		7	acute complications.	
8	it shouldn't have been done here. Okay.		8	Q. Well, did she experience any	
9	What I'm trying to figure		9	chronic complications that you would, to	
10	out is if it's the Prolift that caused		10	a probability, attribute to his lack of	
11	these complications that you just		11	surgical skill?	
12	mentioned or a specific lack of surgical		12	A. No. It's not a surgical	
13	skill by Dr. Baker.		13	skill issue specifically.	
14	·		14		
	•			Q. Just to put it another way, and to make sure	
15	question as surgical technique to refer		15 16		
16	to the surgery		16	MR. SLATER: We don't need	
17	Q. No.		17	to put it another way. We spent	
18	A the technique of the		18	ten minutes on it. Come on.	
19	Prolift itself.		19	Let's move on.	
20	The problem with the		20	BY MR. MORIARTY:	
21	surgical technique		21	Q. To make sure I understand	
22	MR. SLATER: Dr. Weber, all		22	MR. SLATER: If you don't	
23	he's asking is are you saying		23	really understand that, Counsel	
24	Baker did it wrong, or are you		24	really? You really don't	- 1
	anyting that the Duclift proceeding	Page 135	1	understand that?	Page 137
1	saying that the Prolift procedure	Page 135	1	understand that?	Page 137
2	is unsafe. That's all he wants to	Page 135	2	MR. MORIARTY: Okay. That's	Page 137
2 3	is unsafe. That's all he wants to know.	Page 135	2	MR. MORIARTY: Okay. That's fine.	Page 137
2 3 4	is unsafe. That's all he wants to know. THE WITNESS: I'm saying the	Page 135	2 3 4	MR. MORIARTY: Okay. That's fine. BY MR. MORIARTY:	Page 137
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1 the hysterectomy is typically 2 circumferential around the cervix itself. 3 Q. And is that at the 4 considered to be in the posterior portion 5 of the vagina? 6 A. No. That would be the apex. 7 Q. Okay. On the second page, 8 it says, "There was a small hole noted in the membrane between that plane and the intra-abdominal cavity which was closed 11 with purse-string 2-0 Vicryl." 12 What is your understanding 13 of where that hole was and through what 14 planes? 15 A. The hole was in the 16 peritoneum, so the peritoneal membrane is 17 what he's describing there. 18 Q. All right. And then a few 19 lines down it says, "There was a lot of 19 fluid that was draining into the vagina." 20 Lo you have an opinion as to 21 what the source of that fluid was? 22 A. It's not something that I 23 a probability? 4 A. No. 5 Q. Do you have an opinion, to a 3 probability? 4 A. No. 6 differential possibilities for the source of that fluid? 7 Q. What fluid would drain from the deposition testimony, whether it was specific to Prolift? A. I don't recall that 4 specifically from the deposition testimony, whether it was specific to Prolift? A. I don't recall that 4 specifically from the deposition testimony, whether it was specific to Prolift? A. I don't recall that 4 specifically from the deposition testimony, whether it was specific to Prolift? A. J don't recall that 4 specifically from the deposition testimony, whether it was specific to Prolift? A. J don't recall that 4 specifically from the deposition testimony, whether it was specific to Prolift? A. J don't recall that 4 specifically from the deposition testimony, whether it was specific to Prolift? A. Ves. Q. Do you know whether Dr. Lackey's partners are users of transvaginal mesh products? A. I don't recall that 4 specifically from the deposition testimony, whether it was specific to Prolift? A. Yes. Q. Do you know whether Dr. Lackey's partners are users of transvaginal mesh products? A. A. A. Ses. Q. Was Dr. Heit the first Physician to measure the dimensions of Mrs. Hammo
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Q. And is that at the 4 considered to be in the posterior portion 5 of the vagina? 6 A. No. That would be the apex. 7 Q. Okay. On the second page, 8 it says, "There was a small hole noted in 9 the membrane between that plane and the 10 intra-abdominal cavity which was closed 11 with purse-string 2-0 Vicryl." 12 What is your understanding 13 of where that hole was and through what 14 planes? 15 A. The hole was in the 16 peritoneum, so the peritoneal membrane is 17 what he's describing there. 18 Q. All right. And then a few 19 fluid that was draining into the vagina." 20 you have an opinion as to 21 you have an opinion, to a 22 you have an opinion, to a 3 probability? 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source 7 procedure. 9 the bladder and the intraperitoneal 10 cavity. 11 A. Yes. 12 Q. Do you know whether 13 Dr. Lackey's partners are users of transvaginal mesh products? 14 A. Yes. 15 A. I don't recall that 4 specifically from the deposition the sestimony, whether it was specific to Prolift or a different type of mesh 9 procedure. 10 Prolift or a different type of mesh 10 procedure. 11 A. Yes. Q. Do you know assisted in the 11 procedure? 12 Q. Do you know whether 13 Dr. Lackey's partners are users of transvaginal mesh protecdures? 14 Transvaginal mesh procedures? 15 A. I don't know. 9 Lackey's partners are users of transvaginal mesh procedures? 16 Q. You know Dr. Heit was, 17 Correct? 18 A. A user of mesh procedures? 19 procedures in 2009. 20 Was Dr. Heit the first 21 physician to measure the dimensions of 22 Mrs. Hammons' vagina in 2012? 21 A. Yes. 22 Q. And by then, Mrs. Hammons 23 probability? 24 A. No. 25 Q. Do you have a list of 26 differential possibilities for the source 27 of that fluid? 28 A. The differential would be 39 the bladder and the intraperitoneal 30 cavity. 31 into the vagina in a procedure like this? 32 A. I don't know. 9 C. Vay know Dr. Heit the first 9 Dr. Lackey? 15 A. Yes. 16 Prolife or a different type of mesh 17 procedure. 18 Q. Was Dr. Heit the
4 considered to be in the posterior portion 5 of the vagina? 6 A. No. That would be the apex. 7 Q. Okay. On the second page, 8 it says, "There was a small hole noted in 9 the membrane between that plane and the 10 intra-abdominal cavity which was closed 11 with purse-string 2-0 Vicryl." 12 What is your understanding 13 of where that hole was and through what 14 planes? 15 A. The hole was in the 16 peritoneum, so the peritoneal membrane is 17 what he's describing there. 18 Q. All right. And then a few 19 lines down it says, "There was a lot of 19 fluid that was draining into the vagina." 20 A. Yes, I believe so, yeah. 21 Do you have an opinion as to 22 what the source of that fluid was? 23 A. It's not something that I 24 can say with certainty from his operative Page 139 1 report. 2 Q. Do you have an opinion, to a 2 probability? 3 A. No. 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source 7 of that fluid? 8 A. The differential would be 8 A. The differential would be 9 the bladder and the intraperitoneal 10 cavity. 11 Q. What fluid would drain from 11 the intraperitoneal cavity all the way 13 into the vagina in a procedure like this? 4 Specifically rom the deposition testimony, whether it was specific to Prolift or a different type of mesh 7 procedure. 8 Q. Okay. We're talking about this Dr. Prancis who assisted in the 17 procedure? 11 Lis not, Yes, Op Do you know whether 12 Q. Do you know whether 13 Dr. Lackey's partners are users of 14 transvaginal mesh products? 15 A. A user of mesh procedures? 16 Q. Yes. Transvaginal mesh procedures? 17 correct? 18 A. A user of mesh procedures? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh procedures? 20 Yes. Transvaginal mesh procedures? 21 A. Yes, I believe so, yeah. 22 Q. Was Dr. Heit the first 23 physician to measure the dimensions of 24 Mrs. Hammons' vagina in 2012? Page 139 1 report. 2 Q. In due the deposition of a vaginal hysterectomy, anterior Prolift, and a posterior repair for a rectocele/enterocele, would shorten the
5 of the vagina? 6 A. No. That would be the apex. 7 Q. Okay. On the second page, 8 it says, "There was a small hole noted in 9 the membrane between that plane and the 10 intra-abdominal cavity which was closed 11 with purse-string 2-0 Vicryl." 12 What is your understanding 13 of where that hole was and through what 14 planes? 15 A. The hole was and through what 15 peritoneum, so the peritoneal membrane is 16 peritoneum, so the peritoneal membrane is 17 what he's describing there. 18 Q. All right. And then a few 19 lines down it says, "There was a lot of 19 lines down it says, "There was a lot of 19 lines down it says, "There was a lot of 19 lines down it says, "There was no pinion as to 20 what the source of that fluid was? 21 A. It's not something that I 22 a A. It's not something that I 23 probability? 24 can say with certainty from his operative Page 139 1 report. 2 Q. Do you have an opinion, to a 2 probability? 3 A. No. 5 Q. Do you have an opinion, to a 3 probability? 4 A. No. 5 Q. Do you have a list of 6 Prolift or a different type of mesh 7 procedure. 8 Q. Okay. We're talking about this Dr. Francis who assisted in the 9 procedure? 11 A. Yes. 12 Q. Do you know whether 12 Q. You know Dr. Heit was, 13 A. A user of mesh procedures? 14 transvaginal mesh products? 15 A. I don't know. 16 Q. You know Dr. Heit was, 17 correct? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh 19 procedures in 2009. 20 Was Dr. Heit the first 21 A. Yes, 22 Q. Mas Dr. Heit the first 23 physician to measure the dimensions of 24 Mrs. Hammons' vagina in 2012? Page 139 1 report. 2 Q. Do you have an opinion, to a 3 probability? 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source 7 of that fluid? 8 A. The differential would be 9 the bladder and the intraperitoneal 10 cavity. 11 A. Yes, 12 Q. Do you have an opinion as to 12 Q. Is it likely that the 13 combination of a vaginal hysterectomy, 14 A. Yes. 15 Q. Is it likely that the 16 proletire. 17 A. Yes. 18 A. Yes. 19 Q. Is it likely that the 19 pro
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7 Q. Okay. On the second page, 8 it says, "There was a small hole noted in 9 the membrane between that plane and the 10 intra-abdominal cavity which was closed 11 with purse-string 2-0 Vicryl." 12 What is your understanding 13 of where that hole was and through what 14 planes? 15 A. The hole was in the 16 peritoneum, so the peritoneal membrane is 17 what he's describing there. 18 Q. All right. And then a few 19 lines down it says, "There was a lot of 19 fluid that was draining into the vagina." 20 Do you have an opinion as to 21 can say with certainty from his operative Page 139 1 report. 2 Q. Do you have an opinion, to a 2 probability? 3 A. No. 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source 7 of that fluid? 8 A. The differential would be 9 the bladder and the intraperitoneal 10 cavity. 11 Q. What fluid would drain from 12 the intraperitoneal cavity all the way 13 into the vagina in a procedure like this? 7 procedure. 9 Q. Okay. We're talking about 10 ptible Dr. Francis who assisted in the 10 procedure? 11 A. Yes. 12 Q. Do you know whether 13 Dr. Lackey's partners are users of 14 transvaginal mesh products? 14 transvaginal mesh products? 15 A. I don't know. Q. You know Dr. Heit was, 20 correct? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh 10 procedures in 2009. 20 Yes. Transvaginal mesh 21 procedures in 2009. 21 A. Yes, I believe so, yeah. 22 Q. Was Dr. Heit the first 23 physician to measure the dimensions of 24 Mrs. Hammons' vagina in 2012? Page 139 1 report. 2 Q. Do you have a list of 2 Q. And by then, Mrs. Hammons 3 had had the vaginal hysterectomy, 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source 7 of that fluid? 8 A. The differential would be 9 the bladder and the intraperitoneal 10 cavity. 11 Q. What fluid would drain from 12 the intraperitoneal cavity all the way 13 into the vagina in a procedure like this? A We're speaking in gou
8 it says, "There was a small hole noted in the membrane between that plane and the intra-abdominal cavity which was closed with purse-string 2-0 Vicryl." 12 What is your understanding 13 of where that hole was and through what 14 planes? 15 A. The hole was in the peritoneum, so the peritoneal membrane is what he's describing there. 16 peritoneum, so the peritoneal membrane is what he's describing there. 17 Q. All right. And then a few lines down it says, "There was a lot of fluid that was draining into the vagina." 20 What It's not something that I 23 Do you have an opinion, to a 3 probability? 4 A. No. 5 Q. Do you have an opinion, to a 3 probability? 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source of that fluid? 8 A. The differential would be 9 the bladder and the intraperitoneal cavity all the way into the vagina in a procedure like this? 8 Q. Okay. We're talking about this Dr. Francis who assisted in the procedure? 10 procedure? 11 A. Yes. 12 Q. Do you know whether 12 Q. Do you know whether 13 Dr. Lackey's partners are users of 14 transvaginal mesh products? 14 transvaginal mesh products? 15 A. I don't know. Q. You know Dr. Heit was, correct? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh procedures? 19 Q. Yes. Transvaginal mesh procedures? 10 Q. Was Dr. Heit the first physician to measure the dimensions of Mrs. Hammons' vagina in 2012? Page 139 Page 139 Page 141 A. Yes. Q. Was Dr. Heit the first physician to measure the dimensions of Mrs. Hammons' vagina in younger of the source of that fluid? A. Yes. Q. And by then, Mrs. Hammons had had the vaginal hysterectomy, anterior Prolift, and a posterior repair or a cystocele, and a posterior repair for a recocele/enterocele, would shorten the vagina? 10 cavity. 11 Q. What fluid would drain from the intraperitoneal cavity all the way into the vagina in a procedure like this? 13 Do you know whether 14 A. Yes. Q. Do you know brether 15 A. Yes. Q. An A user of mesh procedures in your correct? 16 A. Yes. Q. Was Dr.
9 the membrane between that plane and the 10 intra-abdominal cavity which was closed 11 with purse-string 2-0 Vicryl." 11 A. Yes. 12 What is your understanding of where that hole was and through what 14 planes? 15 A. The hole was in the 16 peritoneum, so the peritoneal membrane is what he's describing there. 17 what he's describing there was a lot of 18 lines down it says, "There was a lot of 19 lines down it
intra-abdominal cavity which was closed with purses-string 2-0 Vicryl." What is your understanding of where that hole was and through what planes? A. The hole was in the peritoneum, so the peritoneal membrane is what he's describing there. Q. All right. And then a few lines down it says, "There was a lot of fluid that was draining into the vagina." Do you have an opinion as to what the source of that fluid was? A. It's not something that I can say with certainty from his operative Page 139 Page 139 Teport. Q. Do you know whether Dr. Lackey's partners are users of transvaginal mesh products? A. I don't know. Q. You know Dr. Heit was, correct? A. A user of mesh procedures? Q. Yes. Transvaginal mesh procedures? Q. Was Dr. Heit the first physician to measure the dimensions of Mrs. Hammons' vagina in 2012? Page 139 Page 139 Page 141 A. Yes. Q. Was Dr. Heit the first physician to measure the dimensions of Mrs. Hammons' vagina in 2012? Page 139 Page 141 A. Yes. Q. Was Dr. Heit the first physician to measure the dimensions of Mrs. Hammons' vagina in 2012? Page 139 Page 141 A. Yes. Q. And by then, Mrs. Hammons had had the vaginal hysterectomy, anterior Prolift, and a posterior repair by Dr. Lackey's A. Yes. Q. Do you have a list of S. Yes. A. Yes. Q. Is it likely that the combination of a vaginal hysterectomy, any type of anterior repair for a rectoccel/enterocele, would shorten the transperitoneal cavity, all the way into the vagina in a procedure like this? A. Yes, I believe so, yeah. A. Ye
10 intra-abdominal cavity which was closed with purses-string 2-0 Vicryl." 11 A. Yes. 2 What is your understanding of where that hole was and through what planes? 13 of where that hole was in the peritoneum, so the peritoneal membrane is what he's describing there. 16 Q. You know Dr. Heit was, correct? 17 A. I don't know. 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh procedures? 19 Q. Yes. Transvaginal mesh procedures? 10 procedure? 11 A. Yes. 12 Q. Do you know whether 13 Dr. Lackey's partners are users of transvaginal mesh products? 14 I don't know. 15 A. I don't know. 16 Q. You know Dr. Heit was, correct? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh procedures? 20 Q. Yes. Transvaginal mesh procedures? 21 A. Yes, I believe so, yeah. 22 Q. Was Dr. Heit the first physician to measure the dimensions of Mrs. Hammons' vagina in 2012? 23 A. It's not something that I 23 physician to measure the dimensions of Mrs. Hammons' vagina in 2012? 24 can say with certainty from his operative 25 Q. Do you have an opinion, to a probability? 26 A. Yes. 27 Q. Do you have a list of differential possibilities for the source of that fluid? 28 A. The differential would be so for the bladder and the intraperitoneal cavity. 29 Q. Was fluid would drain from the bladder and the intraperitoneal cavity all the way into the vagina in a procedure like this? 29 In the vaginal hysterectomy, any type of anterior repair for a rectoccel/enteroccele, would shorten the vagina in a procedure like this? 20 Do you have an opinion, to a probability that the vaginal hysterectomy, any type of anterior repair for a rectoccel/enteroccele, would shorten the vagina in a procedure like this?
11 with purse-string 2-0 Vicryl." 12 What is your understanding 13 of where that hole was and through what 14 planes? 15 A. The hole was in the 16 peritoneum, so the peritoneal membrane is 17 what he's describing there. 18 Q. All right. And then a few 19 lines down it says, "There was a lot of 19 lines down it says, "There was a lot of 19 lines down it says, "There was a lot of 19 lines down it says, "There was a lot of 19 lines down it says, "There was a lot of 19 lines down it says, "There was a lot of 19 Q. Yes. Transvaginal mesh procedures? 19 lines down it says, "There was a lot of 19 Q. Yes. Transvaginal mesh 10 procedures in 2009. 21 A. Yes, I believe so, yeah. 22 Q. Was Dr. Heit the first 23 A. It's not something that I 24 can say with certainty from his operative Page 139 1 report. 2 Q. Do you have an opinion, to a 3 probability? 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source 7 of that fluid? 8 A. The differential would be 9 the bladder and the intraperitoneal 10 cavity. 11 Q. What fluid would drain from 12 the intraperitoneal cavity all the way 13 into the vagina in a procedure like this? 11 A. Yes. Q. Do you know whether 13 Dr. Lackey's partners are users of 14 transvaginal mesh products? A. I don't know. Q. You know Dr. Heit was, 16 Q. You know Dr. Heit was, 17 correct? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh 19 procedures in 2009. 19 Q. Yes. Transvaginal mesh 10 procedures in 2009. 11 A. Yes, I believe so, yeah. 22 Q. Mas Dr. Heit the first 23 physician to measure the dimensions of 24 Mrs. Hammons' vagina in 2012? Page 139 1 A. Yes. Q. Was Dr. Heit was, 17 correct? 1 A. Yes. Q. Was Dr. Heit was, 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh 19 procedures in 2009. 18 A. Yes, I believe so, yeah. 29 Q. And by then, Mrs. Hammons 19 had had the vaginal hysterectomy, 20 And by then, Mrs. Hammons 21 A. Yes. Q. It is it likely that the 22 Q. It is it likely that the 23 part yeige of anterior repair for a rectocele/enterrocele, would
12 What is your understanding 13 of where that hole was and through what 14 planes? 15 A. The hole was in the 16 peritoneum, so the peritoneal membrane is 17 what he's describing there. 18 Q. All right. And then a few 19 lines down it says, "There was a lot of 19 fluid that was draining into the vagina." 21 Do you have an opinion as to 22 what the source of that fluid was? 23 A. It's not something that I 24 can say with certainty from his operative Page 139 1 report. 2 Q. Do you have an opinion, to a 3 probability? 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source 7 of that fluid? 8 A. The hole was and through what 15 A. I don't know. 16 Q. You know Dr. Heit was, 27 correct? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh 20 procedures in 2009. 21 A. Yes, I believe so, yeah. 22 Q. Was Dr. Heit the first 23 physician to measure the dimensions of 24 Mrs. Hammons' vagina in 2012? Page 139 1 report. 2 Q. Do you have an opinion, to a 3 probability? 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source 7 of that fluid? 8 A. The differential would be 9 the bladder and the intraperitoneal 10 cavity. 11 Q. What fluid would drain from 12 the intraperitoneal cavity all the way 13 into the vagina in a procedure like this? 13 Dr. Lackey's partners are users of 14 transvaginal mesh products? 16 Q. You know Dr. Heit was, 20 A. A user of mesh procedures? 20 Yes. Transvaginal mesh products? 22 Q. Was Dr. Heit the first 23 physician to measure the dimensions of 24 Mrs. Hammons' vagina in 2012? Page 139 1 A. Yes. 2 Q. And by then, Mrs. Hammons 3 had had the vaginal hysterectomy, 4 anterior Prolift, and a posterior repair 5 by Dr. Lackey? 6 A. Yes. 9 Q. Is it likely that the 17 correct? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh procedures? 10 cystocele, and a posterior repair for a rectocele/enterocele, would shorten the 19 Q. Was Dr. Heit the first 10 A. Yes, I believe so, yeah. 22 Q. And by then, Mrs. Hammons 24 had had the vaginal hy
13 of where that hole was and through what 14 planes? 15 A. The hole was in the 16 peritoneum, so the peritoneal membrane is 17 what he's describing there. 18 Q. All right. And then a few 19 lines down it says, "There was a lot of 20 fluid that was draining into the vagina." 21 Do you have an opinion as to 22 what the source of that fluid was? 23 A. It's not something that I 24 can say with certainty from his operative Page 139 1 report. 2 Q. Do you have an opinion, to a 3 probability? 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source 7 of that fluid? 8 A. The differential would be 9 the bladder and the intraperitoneal 10 cavity. 1 Q. What fluid would drain from 1 the intraperitoneal cavity all the way 13 Dr. Lackey's partners are users of 14 transvaginal mesh products? 15 A. I don't know. 16 Q. You know Dr. Heit was, 17 correct? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh 20 Povou have an opendures? 21 A. Yes, I believe so, yeah. 22 Q. Was Dr. Heit the first 23 physician to measure the dimensions of 24 Mrs. Hammons' vagina in 2012? Page 139 1 A. Yes. 2 Q. And by then, Mrs. Hammons 1 And had the vaginal hysterectomy, 2 anterior Prolift, and a posterior repair 3 by Dr. Lackey? 6 A. Yes. 7 Q. Is it likely that the 8 combination of a vaginal hysterectomy, 9 any type of anterior repair for a 10 cystocele, and a posterior repair for a 11 rectocele/enterocele, would shorten the 12 vagina? 13 A. We're speaking in general?
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15 A. The hole was in the 16 peritoneum, so the peritoneal membrane is 17 what he's describing there. 18 Q. All right. And then a few 19 lines down it says, "There was a lot of 20 fluid that was draining into the vagina." 21 Do you have an opinion as to 22 what the source of that fluid was? 23 A. It's not something that I 24 can say with certainty from his operative Page 139 1 report. 2 Q. Do you have an opinion, to a 3 probability? 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source 7 of that fluid? 8 A. The differential would be 9 the bladder and the intraperitoneal 10 cavity. 11 Q. What fluid would drain from 12 the intraperitoneal cavity all the way 13 into the vagina in a procedure like this? 15 A. I don't know. 16 Q. You know Dr. Heit was, 17 correct? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh 19 procedures in 2009. 21 A. Yes, I believe so, yeah. 22 Q. Was Dr. Heit the first 23 physician to measure the dimensions of 24 Mrs. Hammons' vagina in 2012? Page 139 1 A. Yes. 2 Q. And by then, Mrs. Hammons 3 had had the vaginal hysterectomy, 4 anterior Prolift, and a posterior repair by Dr. Lackey? 6 A. Yes. 7 Q. Is it likely that the 8 combination of a vaginal hysterectomy, 9 any type of anterior repair for a 10 cavity. 11 Q. What fluid would drain from 12 the intraperitoneal cavity all the way 13 into the vagina in a procedure like this? 15 A. I don't know. 16 Q. You know Dr. Heit was, 17 correct? 18 A. A user of mesh procedures? 18 A. A user of mesh procedures? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh 20 Q. Was Dr. Heit was, 17 A. Yes, I believe so, yeah. 22 Q. Was Dr. Heit was, 18 A. Yes, I believe so, yeah. 22 Q. Was Dr. Heit was, 17 A. Yes I and I
16 peritoneum, so the peritoneal membrane is 17 what he's describing there. 18 Q. All right. And then a few 19 lines down it says, "There was a lot of 20 fluid that was draining into the vagina." 21 Do you have an opinion as to 22 what the source of that fluid was? 23 A. It's not something that I 24 can say with certainty from his operative Page 139 1 report. 2 Q. Do you have an opinion, to a probability? 4 A. No. 5 Q. Do you have a list of 6 differential possibilities for the source 7 of that fluid? 8 A. The differential would be 9 the bladder and the intraperitoneal cavity all the way 10 peritoneum, so the peritoneal what he secretion is described. The source or construct or correct? 18 A. A user of mesh procedures? 19 Q. Yes. Transvaginal mesh 20 procedures in 2009. 21 A. Yes, I believe so, yeah. 22 Q. Was Dr. Heit the first 23 physician to measure the dimensions of 24 Mrs. Hammons' vagina in 2012? Page 139 1 A. Yes. 2 Q. And by then, Mrs. Hammons 3 had had the vaginal hysterectomy, 4 anterior Prolift, and a posterior repair 5 by Dr. Lackey? 4 A. No. 5 Q. Do you have a list of 5 by Dr. Lackey? 5 A. Yes. 7 Q. Is it likely that the combination of a vaginal hysterectomy, 9 any type of anterior repair for a 10 cavity. 10 cystocele, and a posterior repair for a 11 rectocele/enterocele, would shorten the 11 vagina? 13 into the vagina in a procedure like this? 14 A. Yes. 25 Q. Mas Dr. Heit was, A. A user of mesh procedures? 15 A. Yes, I believe so, yeah. 26 Q. Was Dr. Heit was, A. Yes, I believe so, yeah. 27 Q. Was Dr. Heit was, and in a procedure like way 12 vagina? 18 A. Yes, I believe so, yeah. 29 Q. Was Dr. Heit was, and in a procedure like way 12 vagina? 18 A. Yes, I believe so, yeah. 29 Q. Was Dr. Heit was, and in a procedure like way 12 vagina? 19 Q. Was Dr. Heit was, and a posterior for a 11 rectocele/enterocele, would shorten the 12 vagina? 19 Q. Was Dr. Lackey? 19 Q. Was Dr. Heit was, and a posterior repair for a 12 cystocele, and a posterior repair for a 12 cystocele, and a posterior repair for a 12
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13 into the vagina in a procedure like this? 13 A. We're speaking in general?
1
14 A. Well, he has the closure of 14 Q. Yes.
15 the peritoneum that through a Vicryl 15 A. There's a risk of that.
16 suture. It's not something that's 16 Q. Okay. And that risk would
17 watertight. There's a certain amount of 17 apply to Mrs. Hammons?
18 fluid that's in the intra-abdominal 18 A. It would apply to
19 cavity that could come through that. 19 Mrs. Hammons. We have the evidence from
20 Obviously, there's no characterization of 20 Dr. Heit's exam regarding abnormalities
21 the volume other than "a lot of fluid." 21 he found in the anterior vagina related
22 Q. Okay. Was it your 22 to the Prolift mesh where it was tense
23 understanding that Dr. Lackey I'm 23 and taut, and the mesh contraction would
, , , , , , , , , , , , , , , , , , , ,
24 sorry. Was it your understanding that 24 be contributing based on his exam to the

	Page 142			Page 144
1	shortened vaginal length at that point.	1	Dr. Zipper's report, she wasn't having	
2	Q. Did Dr. Heit mention in his	2	urinary incontinence at the time he saw	
3	records or in his deposition that it was	3	her. So whether that had anything to do	
4	his opinion that the shortened vagina was	4	with stress incontinence symptoms she had	
5	multifactorial?	5	in between, I can't say that with	
6	A. Yes, I believe that was his	6	certainty.	
7	deposition testimony.	7	Q. Okay. And she didn't	
8	Q. Would Mrs. Hammons, by	8	actually complain of stress urinary	
9	virtue of her age and her menopausal	9	incontinence until after Dr. Lackey	
10	status, would that also increase the risk	10	performed his posterior repair, correct?	
11	of her having a shortened vagina?	11	A. I would have to see the	
12	A. No. I don't believe so.	12	records to answer that with certainty.	
13	Q. Why not?	13	Q. One quick question about	
14	A. In my clinical experience,	14	Exhibit 10, which is that FDA statement	
15	only a severe atrophy that occurs in	15	in 2008. At the bottom of the first	
16	women who are much farther past their age	16	page, there are some recommendations,	
17	of menopause results in a change in the	17	correct?	
18	vaginal dimensions. For someone like	18	A. Yes.	
19	Mrs. Hammons, the atrophy is more	19	Q. And FDA did not recommend	
20	superficial and related to the changes in	20	that the procedure be the Prolift	
21	the epithelium of the vagina.	21	procedure be restricted to I'm sorry.	
22	Q. How many years was she	22	Let me withdraw that question.	
23	postmenopause by May of 2009?	23	FDA's notification was not	
24	A. I don't remember exactly.	24	just about one specific company's	
	,		. , ,	
	Page 143			Page 145
1	Page 143 It would be less than ten.	1	product, correct?	Page 145
1 2		1 2	product, correct? A. Correct.	Page 145
	It would be less than ten.		·	Page 145
2	It would be less than ten. Q. Is ten about the time that	2	A. Correct.	Page 145
2	It would be less than ten. Q. Is ten about the time that the risk of vaginal shortening begins	2	A. Correct.Q. And these recommendations	Page 145
2 3 4	It would be less than ten. Q. Is ten about the time that the risk of vaginal shortening begins secondary to menopause?	2 3 4	A. Correct. Q. And these recommendations didn't include that only high-volume	Page 145
2 3 4 5	It would be less than ten. Q. Is ten about the time that the risk of vaginal shortening begins secondary to menopause? A. In my clinical experience,	2 3 4 5	A. Correct. Q. And these recommendations didn't include that only high-volume surgeons should be trained on the	Page 145
2 3 4 5 6	It would be less than ten. Q. Is ten about the time that the risk of vaginal shortening begins secondary to menopause? A. In my clinical experience, I've seen that in in elderly women,	2 3 4 5 6	A. Correct. Q. And these recommendations didn't include that only high-volume surgeons should be trained on the procedure	Page 145
2 3 4 5 6 7	It would be less than ten. Q. Is ten about the time that the risk of vaginal shortening begins secondary to menopause? A. In my clinical experience, I've seen that in in elderly women, 70 plus.	2 3 4 5 6 7	A. Correct. Q. And these recommendations didn't include that only high-volume surgeons should be trained on the procedure MR. SLATER: Objection.	Page 145
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		Page 146	_		Page 148
1	this.		1	procedure in December of 2009, the	
2	MR. MORIARTY: Because this		2	Prolift was at least managing	
3	was available before Dr. Baker		3	Mrs. Hammons cystocele, correct?	
4	operated.		4	 A. She did not have a recurrent 	
5	MR. SLATER: So what? She's		5	cystocele at this point. That's correct.	
6	been deposed on it.		6	Q. Okay. From your	
7	MR. MORIARTY: Just either		7	understanding of Dr. Heit's operative	
8	tell her to answer or not.		8	notes and I will mark them did he	
9	MR. SLATER: Please move on		9	ever actually perform an anterior	
10	to something that's case-specific.		10	prolapse procedure?	
11	BY MR. MORIARTY:		11	(Document marked for	
12	Q. In 2009, were reasonably		12	identification as Exhibit	
13	prudent pelvic surgeons like Dr. Baker		13	Weber-15.)	
14	performing Prolift procedures?		14	BY MR. MORIARTY:	
15	A. Surgeons were performing		15	Q. So 15 is his 2012 procedure.	
16	Prolift procedures based on yes, they		16	(Document marked for	
17	were.		17	identification as Exhibit	
18	Q. Okay. So Dr. Baker was not		18	Weber-16.)	
19	committing malpractice when he used		19	BY MR. MORIARTY:	
			20		
20	Prolift on Mrs. Hammons, correct?			Q. And 16 is the January 2013	
21	A. I'm not giving		21	procedure.	
22	standard-of-care opinions on Dr. Baker.		22	So you're looking at the one	
23	Q. Okay. Either way, that he		23	from November 28, 2012?	
24	was or was not within the standard of		24	A. Yes.	
		Page 1/17			Page 1/10
1	care correct? You're giving no oninion	Page 147	1	O Did he as far as you can	Page 149
1	care, correct? You're giving no opinion	Page 147	1	Q. Did he as far as you can	Page 149
2	about that subject?	Page 147	2	tell from this operative report, did he	Page 149
2	about that subject? MR. SLATER: That's correct.	Page 147	2	tell from this operative report, did he perform any sort of anterior support	Page 149
2 3 4	about that subject? MR. SLATER: That's correct. THE WITNESS: Correct.	Page 147	2 3 4	tell from this operative report, did he perform any sort of anterior support procedure?	Page 149
2 3 4 5	about that subject? MR. SLATER: That's correct. THE WITNESS: Correct. MR. SLATER: She's not	Page 147	2 3 4 5	tell from this operative report, did he perform any sort of anterior support procedure? A. No, he did not.	Page 149
2 3 4 5 6	about that subject? MR. SLATER: That's correct. THE WITNESS: Correct. MR. SLATER: She's not proffered on standard of care.	Page 147	2 3 4 5 6	tell from this operative report, did he perform any sort of anterior support procedure? A. No, he did not. Q. Okay. And his pre- and	Page 149
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Page 150 Page 152 inappropriate? problem with the anterior mesh, which 1 2 would include a contraction, infection. Α. No. 2 3 3 And is the same true with She could possibly have a pelvic Ο. 4 4 infection that he was feeling a his description of the hysterectomy? 5 A. Yes. 5 tenderness at that point. 6 6 Anything else? Dr. Baker's first post-op Ο. office visit was May 17, 2009. And I 7 Those are the main ones, I 7 Α. believe at that point in your report you 8 8 think. 9 mentioned that she was having some 9 Q. To the best of your 10 complaints of urinary problems. 10 understanding from these medical records Was it appropriate for him and the testimony, she did not have 11 11 to tell her at that point essentially to either a mesh infection or a pelvic 12 12 give it more time? infection at that point; is that true? 13 13 14 May 17, 2009. 14 Α. Yes. 15 A. Okay. Yes. 15 Q. Were there any complaints of O. And did whatever urinary dyspareunia recorded in the medical 16 16 symptoms she complained about on May 17, records -- withdraw that question. 17 17 18 2009, seem to resolve over the course of 18 Were there any complaints of the next few office visits? dyspareunia recorded in the medical 19 19 20 A. Yes. 20 records between Dr. Lackey's procedure in 21 In June -- I'm sorry. On 21 December of 2009 and January of 2012? June 9, 2009, I think Dr. Baker's office I'm just referring to what was recorded 22 22 23 note reflects that he was seeing a 23 in the medical records. 24 suture. Is it your opinion that that 24 A. So, in my report, I'm just Page 151 Page 153 was, in fact, a non -- as of then, referring to records from Dr. Lackey. 1 1 2 not-yet-absorbed suture? 2 Q. I'm sorry. Could you tell 3 me what page you're looking at? 3 A. I can only go by his 4 records. If he reported that he saw a 4 A. I'm on Page 3 at the bottom, 5 suture, it's probably a suture. 5 which is the July 20, 2009, with 6 Q. Okay. It's not your opinion 6 Dr. Baker. 7 that she had a vaginal mesh exposure at 7 Okay. Q. 8 8 that point, June of 2009? A. And you're asking about the 9 time -- I'm sorry. Could you remind me 9 A. No. of the time frame that you're asking 10 So on July 20th of 2009, 10 Mrs. Hammons complains to Dr. Baker about 11 about? 11 dyspareunia, correct? 12 12 Q. Yeah. My question was 13 Α. Yes. 13 between Dr. Lackey's procedure in December of 2009 and January of 2012. 14 0. And Dr. Baker writes in his 14 note, "This was mostly at the back cuff." 15 A. January of 2009? 15 16 Did he not? 16 No. Between Dr. Lackey's surgery of December 2009 and January of 17 On the back cuff, yes. 17 A. What is the differential 2012, is there any voiced complaint in 18 O. 18 the medical records of dyspareunia? 19 diagnosis, in your opinion, for the 19 causes of that dyspareunia at that A. I gotcha. In my report, I'm 20 20 location on July 20, 2009? just referring to Dr. Lackey. And I 21 21 22 The differential diagnosis don't have the information from Α. 22 23 would include tenderness from the scar 23 Dr. Rohrer as to whether she reported from the hysterectomy, tenderness from a 24 that to him in that time period. 24

		I		
	Page 154			Page 156
1	Q. Okay. So as of right now,	1	a predictable course over the next	
2	you don't know the answer?	2	several years where the	
3	A. Correct.	3	contraction becomes more and more	
4	Q. Okay. Let me go back to	4	evident, until we reach Dr. Heit's	- 1
5	July 20th of 2009. In your report, you	5	exam where he finds that the	- 1
6	gave the opinion that the most likely	6	anterior vagina is tense and taut	- 1
7	cause of her dyspareunia at that point	7	and tender as the cause of her	- 1
8	was mesh contraction; is that right?	8	dyspareunia.	- 1
9	A. Yes.	9	BY MR. MORIARTY:	- 1
10	Q. And do you have an opinion,	10	Q. Okay. As a complaint of	- 1
11	to a reasonable degree of medical	11	dyspareunia, just as a subjective	- 1
12	probability, as to the degree of that	12	complaint, was it, I guess, stable from	- 1
13	contraction at that point?	13	the summer of 2009 up until Dr. Heit saw	- 1
14	 A. Not a specific degree. 	14	her in the summer of 2012?	- 1
15	Q. Had somebody operated on her	15	A. Mrs. Hammons reported in her	- 1
16	at that point and removed the mesh, would	16	deposition testimony that after the	- 1
17	it have been flat, folded, bunched? Do	17	Prolift procedure, she was never able to	
18	you have an opinion on that?	18	complete the act of sexual intercourse.	- 1
19	 A. She's experiencing pain at a 	19	Her physical findings on examination	- 1
20	location where the mesh arms are	20	changed over time as the degree of mesh	- 1
21	inserting into the pelvic side wall. So	21	contraction became more severe.	- 1
22	the Prolift mesh contraction that was	22	Q. They changed how? Her	- 1
23	going on at that point leading to that	23	physical findings changed how?	- 1
24	pain, I believe that the findings, if	24	 A. They changed from when 	
	Page 155			Page 157
1	Page 155 someone took that out, would represent	1	Dr. Baker initially felt the tenderness	Page 157
2		2	at the apex of the vagina, which is where	Page 157
	someone took that out, would represent		•	Page 157
2 3 4	someone took that out, would represent the bridging fibrosis and the scar	2 3 4	at the apex of the vagina, which is where	Page 157
2	someone took that out, would represent the bridging fibrosis and the scar plating that happens with mesh	2	at the apex of the vagina, which is where the top anterior body of the Prolift mesh	Page 157
2 3 4	someone took that out, would represent the bridging fibrosis and the scar plating that happens with mesh contraction.	2 3 4	at the apex of the vagina, which is where the top anterior body of the Prolift mesh is, and the two deep mesh arms of the	Page 157
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		Page 158			Page 160
1	A. Dr. Heit's description on		1	BY MR. MORIARTY:	- 1
2	his examination, Dr. Heit's findings in		2	Q. In the same study?	- 1
3	the operating room, the fact that the		3	A. Yes.	- 1
4	mesh was so contracted and causing		4	Q. Okay.	- 1
5	distortion and adherence under the		5	A. And this was a study of	- 1
6	bladder base that he injured the bladder		6	ultrasound signs of mesh contraction in	- 1
7	twice in the course of trying to remove		7	women after the Prolift procedure.	- 1
8	the Prolift mesh, and the pathology		8	And they found that	- 1
9	findings that describe the gross		9	87 percent of women had moderate to	- 1
10	specimens as rubbery and firm, which is a		10	severe retraction by ultrasound, and they	- 1
11	description that's classic for the		11	described that as crumpled, folded,	- 1
12	bridging fibrosis scar plating that		12	bunched. They measured the mesh	- 1
13	happens with the Prolift mesh.		13	thickness and found that the mesh	- 1
14	Q. Okay. Is there any		14	thickness increased in a direct	- 1
15	diagnosis actually in the medical records		15	relationship with the level of mesh	- 1
16	of contraction? Did anybody write that		16	retraction.	- 1
17	as a diagnosis in the medical records?		17	And in addition, we know	- 1
18	 A. I would have to look to see 		18	that these same patients experienced a	- 1
19	if the exact word exists.		19	painful mesh contraction of more than	- 1
20	Q. Did anybody write the word		20	19 percent. So these are the ultrasound	- 1
21	or words "roping," "fraying," or		21	and clinical findings that are exactly	- 1
22	"degradation of mesh" in Mrs. Hammons'		22	what happened to Ms. Hammons.	- 1
23	medical records?		23	Q. Is there another study?	- 1
24	A. Not to my knowledge, no.		24	 A. There are other mesh 	- 1
		Page 159			Page 161
1	Q. To the best of your	Page 159	1	studies I'm sorry other ultrasound	Page 161
2	Q. To the best of your understanding, is there any published	Page 159	2	studies that show mesh contraction.	Page 161
	- · · · · · · · · · · · · · · · · · · ·	Page 159			Page 161
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					1
	•	Page 162			Page 164
1	ultrasound that was performed at that		1	Q. Of Mrs. Hammons in 2009.	
2	time.		2	A. So we're talking	
3	Q. Why do you rule out vaginal		3	specifically at the 12-week visit with	
4	atrophy and vaginal shortening as causes		4	Dr. Baker?	
5	of Mrs. Hammons' dyspareunia?		5	Q. In July of 2009.	
	· · ·			•	
6	MR. SLATER: Objection.		6	A. Okay.	
7	Compound. Confusing. Lack of		7	Q. I'm just asking if atrophy	
8	foundation.		8	and a shortened vagina are at least in	
9	THE WITNESS: I don't		9	the differential diagnosis.	
10	believe I did that, to rule those		10	 A. In general terms. In his 	
11	diagnoses out.		11	examination, he described the pain	
12	BY MR. MORIARTY:		12	specifically at the back cuff where the	
13	Q. Well, I asked you for your		13	body of the Prolift and the deep arms are	
14	differential diagnosis of her dyspareunia		14	located.	
15	in July of 2009. Okay. And when you		15	Q. Okay. After Dr. Lackey's	
16	gave it to me, I assumed that let me		16	surgery in December of 2009, would	
17	back up.		17	atrophy and a shortened vagina be in the	
	•			• •	
18	The differential diagnosis		18	differential diagnosis for Mrs. Hammons'	
19	that you gave me for her complaints of		19	complaints of dyspareunia?	
20	dyspareunia were hysterectomy scar,		20	A. Those would be potentially	
21	anterior mesh, either infected or		21	in the differential, yes.	
22	contracting, or a pelvic infection.		22	Q. All right. And how do you	
23	Okay. So let me circle back and ask you.		23	rule them out?	
24	Wouldn't vaginal atrophy and		24	I'm sorry. Do you rule them	
		Page 163	_		Page 165
1	a foreshortened vagina be in the	Page 163	1	out as part of the differential	Page 165
2	differential diagnosis?	Page 163	2	diagnosis?	Page 165
2	differential diagnosis? MR. SLATER: Objection.	Page 163		diagnosis? A. It depends on the	Page 165
2	differential diagnosis?	Page 163	2	diagnosis?	Page 165
2	differential diagnosis? MR. SLATER: Objection. Lack of foundation.	Page 163	2	diagnosis? A. It depends on the examination at that point and if the	Page 165
2 3 4 5	differential diagnosis? MR. SLATER: Objection. Lack of foundation. THE WITNESS: Her physical	Page 163	2 3 4 5	diagnosis? A. It depends on the examination at that point and if the findings point to those features of	Page 165
2 3 4 5 6	differential diagnosis? MR. SLATER: Objection. Lack of foundation. THE WITNESS: Her physical findings at the time of Dr. Heit's	Page 163	2 3 4 5 6	diagnosis? A. It depends on the examination at that point and if the findings point to those features of atrophy or foreshortening as a potential	
2 3 4 5 6 7	differential diagnosis? MR. SLATER: Objection. Lack of foundation. THE WITNESS: Her physical findings at the time of Dr. Heit's examination show specifically	Page 163	2 3 4 5 6 7	diagnosis? A. It depends on the examination at that point and if the findings point to those features of atrophy or foreshortening as a potential component of her dyspareunia. And when	
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2	
3 A. Yes. 4 BY MR. MORIARTY: 5 Q. Okay. Doctor, these are the 6 two pages that have the notes for that 7 visit. 8 A. Okay. Thank you. 9 Q. Got it? Why don't you just 10 quickly look at the bottom and the typed 11 notes on the second page. 12 A. Okay. 13 Q. Doctor, while we're after 14 the lunch break, I started by going to 15 January 9, 2012. And I just want to 3 A. Yes. 4 Q. Okay. In that same visit, 5 she's complaining of dyspareunia, is 6 not? 7 A. Actually, that's apareunia. 8 The inability to have intercourse at a 9 apareunia. 10 Q. All right. So she had 11 dyspareunia to the point where they 12 stopped trying? 13 A. Yes. 14 Q. In Dr. Lackey's physical 15 examination, does he note atrophy?	
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15 January 9, 2012. And I just want to 15 examination, does he note atrophy?	
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16 quickly repeat the lead-in, because there 16 A. Yes.	
17 was a computer glitch with the court 17 Q. Does he describe it in any	,
18 reporter. Okay? 18 more detail than that?	
19 A. Yes. 19 A. No.	
20 Q. All right. So Mrs. Hammons 20 Q. Would the differential	
	scolo
22 correct? 22 apareunia include atrophy, the rector	icele
23 A. Yes. 23 surgery from 2009, the vaginal	£
24 Q. And this is after some 24 hysterectomy and Prolift procedure f	ırom

Page 170 Page 172 1 May of 2009, at least those things? 1 A. Urethral instability, 2 A. I think, if I understand 2 overflow incontinence, stress 3 3 your question correctly, the anterior incontinence, fistula, ectopic ureter, restrictive bladder disease, which has a Prolift and hysterectomy are joined by an 4 4 5 "and." 5 number of causes. I think those are the 6 6 Well, it was a combined main ones. Oh, excuse me. Urinary tract 7 7 procedure, correct? infection. 8 8 A. Correct. So in that case, Q. Eventually, Dr. Heit finds 9 9 mesh bunched in the midline, does he not? ves. 10 All right. I believe on 10 Α. Yes. Q. 11 August 3rd, 2012, Dr. Rohrer mentioned 11 O. All right. Other than something in his notes about a surgeon 12 12 contraction, what are the possible causes puncturing the bladder prior to that of that finding? 13 13 time. Did you see that in the notes when 14 14 A. In general terms, not you reviewed them? 15 15 specific to Mrs. Hammons, it could be implantation technique. It could be 16 A. I did. 16 something -- some external influence like 17 Q. And that's a mistake, is it 17 18 not? 18 radiation therapy that would have an even 19 A. I believe so, based on the 19 more pronounced scarring effect, 20 operative report. That was not recorded. 20 particularly -- well, let's just go there. Let's just stop there. Those are 21 Q. All right. Was Mrs. Hammons 21 22 having overactive bladder symptoms in the the main ones that I can think of. 22 23 summer of 2012, either based on notes by 23 So several times in your 24 Dr. Lackey or Dr. Rohrer? 24 report in this case, you refer to Page 171 Page 173 Now, overactive bladder Dr. Heit mentioned that he thought it was 1 1 2 typically refers to the constellation of 2 a surgical technique issue. Do you 3 3 urgency, frequency, and urge disagree with him? 4 incontinence. What she was describing 4 A. I disagree to the extent 5 when she saw Dr. Lackey on August 14th 5 that his findings are the worse 6 was leaking urine without any warning. 6 representation of mesh contraction. And 7 Q. And you're talking about 7 when she had been examined earlier in 8 8 2012, correct? time, less severe manifestations of the 9 9 mesh contraction existed. From surgical A. Yes. So that's not -- that brief description is not really videos, et cetera, we know that the 10 10 consistent with urge incontinence. 11 Prolift mesh often doesn't go in flat. 11 That's typically labeled under the rubric It's crumpled, roping, pore collapse. 12 12 of overactive bladder. 13 13 And at that point, that's O. I'm sorry. I didn't not something that can be visualized by 14 14 understand that. I thought you were the surgeon after the vaginal epithelium 15 15 16 saying it wasn't overactive bladder. Are 16 has been closed. 17 you saying it is? 17 Okay. Maybe I didn't ask a O. very good question. A. No, no. Leaking without 18 18 warning, without an overwhelming sense of 19 19 Dr. Heit, in his -- in at urgency, that is not OAB. least his deposition, said that he 20 20 21 O. So she has that complaint 21 thought it was a technique error by 22 that she's leaking without the sense of Dr. Baker, the implant. Do you disagree 22 urgency. What's your differential 23 23 with Dr. Heit? diagnosis of that problem at that point? 24 I believe what Dr. Heit was 24 Α.

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	Page 174			Page 176
1	explaining in his deposition testimony	1	Q. Okay. Do we know what that	
2	was, as if the bunching and crumpling,	2	"some" is, in a percentage?	
3	had it existed to the extent it was when	3	 A. I can give you examples from 	
4	he first saw her all along the way, but	4	the literature.	
5	with the benefit of the longitudinal	5	Q. No, that's okay.	
6	records that we have, we can see that, at	6	All right. So Scenario 2.	
7	least to the extent when Dr. Baker saw	7	If Dr. Baker puts in the mesh and he	
8	her at 12 weeks and he was palpating the	8	doesn't lay it completely flat and	
9	vaginal apex where the deep arms of the	9	contraction occurs, could it accentuate	
10	anterior Prolift mesh go and the deep	10	the whatever fold there was at the	
11	aspect of the body of the Prolift mesh,	11	time of the implant?	
12	by his recorded exam, the mesh did extend	12	A. I'm sorry. Now you've lost	
13	from the vaginal apex to the location	13	me. Can you repeat or rephrase?	
14	under the bladder base.	14	Q. I asked, do you disagree	
15	So to the extent that that	15	with Dr. Heit that this configuration he	
16	represents the coverage that the body of	16	found was a technique error by Dr. Baker.	
17	the Prolift mesh is supposed to account	17	And I think what you're saying is that	
18	for, that didn't later in time then,	18	I think what you're saying and please	
19	as the contraction progressed, Dr. Heit	19	correct me if I'm wrong is that	
20	had his findings.	20	Dr. Baker could have put it in wrong to	
21	So that in if there was	21	some degree, but not the degree that	
22	folding or clumping, we know there's	22	Dr. Heit found it in 2012.	
23	floor collapse, it would be of a	23	Is that what you're saying?	
24	relatively less degree when Dr. Baker saw	24	MR. SLATER: Objection. You	
	, 3		•	
	Page 175			Page 177
1	Page 175 her at 12 weeks, because he documented	1	can answer.	Page 177
1 2		2	can answer. THE WITNESS: I think we're	Page 177
	her at 12 weeks, because he documented			Page 177
2	her at 12 weeks, because he documented that the mesh extended from the apex	2	THE WITNESS: I think we're	Page 177
2	her at 12 weeks, because he documented that the mesh extended from the apex proximally, versus what Dr. Heit found,	2	THE WITNESS: I think we're getting there.	Page 177
2 3 4	her at 12 weeks, because he documented that the mesh extended from the apex proximally, versus what Dr. Heit found, which was the concentration of the	2 3 4	THE WITNESS: I think we're getting there. When Dr. Baker examined	Page 177
2 3 4 5	her at 12 weeks, because he documented that the mesh extended from the apex proximally, versus what Dr. Heit found, which was the concentration of the clumping mesh below the bladder base and the urethra and closer to the outside.	2 3 4 5	THE WITNESS: I think we're getting there. When Dr. Baker examined Mrs. Hammons at 12 weeks	Page 177
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	Page 178			Page 180
1	worse	1	but that's my paraphrasing to put it into	
2	MR. SLATER: Objection.	2	a complete sentence.	
3	BY MR. MORIARTY:	3	Q. Okay. Where in Dr. Heit's	
4	Q for the patient?	4	November 28, 2012, operative note, if you	
5	Is that what you're saying?	5	recall, does it describe the treatment of	
6	MR. SLATER: Objection.	6	a vaginal exposure?	
7	Lack of foundation,	7	 A. Could I have his operative 	
8	mischaracterization.	8	note?	
9	THE WITNESS: I can try	9	Q. It's in this stack here.	
10	again. This is a progressive	10	It's Exhibit 15. Right there.	
11	process.	11	A. So, in the findings, this is	
12	BY MR. MORIARTY:	12	on the first page towards the bottom, the	
13	Q. I understand. I'm just	13	last sentence in the findings, "There's	
14	trying to find out if you disagree with	14	also communication with the vaginal	
15	Dr. Heit that it was a technique error.	15	mucosa through a sinus tract formation."	
16	MR. SLATER: Just that	16	Then in the body of the	
17	question.	17	operative report the body of the	
18	THE WITNESS: Just that	18	operative report does not describe the	
19	question. I disagree with	19	specific step in the procedure in which	
20	Dr. Heit.	20	he managed the sinus tract formation.	
21	BY MR. MORIARTY:	21	Q. Okay. And when it says in	
22	Q. Okay. Is it your opinion	22	the findings section on the first page of	
23	that the condition in which Dr. Heit	23	Exhibit 15, "There was also communication	
24	found the mesh, when he operated in 2012,	24	with the vaginal mucosa through a sinus	
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	Page 179			Page 181
1	Page 179 is solely related to contraction?	1	tract formation," does that mean to you	Page 181
1 2		1 2	tract formation," does that mean to you that there was an erosion in the vaginal	Page 181
	is solely related to contraction? A. Well, it's a whole spectrum.		tract formation," does that mean to you that there was an erosion in the vaginal mucosa of mesh?	Page 181
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		Page 182		F	Page 184
1	A. Yes.		1	findings nerves entrapped in mesh that	
2	Q. Have you ever spoken with		2	leads to the diagnosis of neuronal	
3	Dr. Zipper?		3	entrapment.	
4	A. No.		4	So it's a clinical diagnosis	
5	Q. Ever met him?		5	for doctors caring for patients in the	
6	A. No.		6	office. It's been substantiated by	
7				•	
	Q. Have you seen any record in		7	research, as I just described to you.	
8	this any record of Mrs. Hammons in		8	Q. Is that process that you're	
9	this case diagnosing a neuronal		9	describing part of a foreign body	
10	entrapment?		10	reaction?	
11	 A. In her clinical care, is 		11	 A. Yes. The foreign body 	
12	that what you're referring to? In her		12	reaction, inflammatory reaction, which	
13	medical records?		13	worsens the higher the mesh burden,	
14	Q. Yes.		14	the worse the foreign body reaction and	
15	A. Yes, okay. Then the answer		15	inflammatory reaction. So definitely,	
16	is no.		16	yes, it would also be directly related to	
17			17	the neuronal entrapment.	
	Q. Okay. Are there studies			•	
18	available to diagnose whether there's		18	Q. Have you ever published on	
19	such a thing as neuronal entrapment in a		19	foreign body reactions?	
20	patient?		20	A. No.	
21	A. Yes.		21	Q. Okay. Are there what	
22	Q. And what kind of study is		22	tests can be run on a patient to see if	
23	that?		23	they have reduced bladder compliance?	
24	A. Those are primarily based		24	A. You could do urodynamic	
	. ,			•	
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		Page 183		F	Page 185
1	out of the hernia mesh literature where,	Page 183	1	testing in which the bladder is	Page 185
1 2		Page 183	1 2		Page 185
2	in the shrinkage and contraction that	Page 183	2	testing in which the bladder is backfilled with fluid. You could also	Page 185
2	in the shrinkage and contraction that occurs with hernia mesh, the neurons that	Page 183	2 3	testing in which the bladder is backfilled with fluid. You could also have the patient go home with a measuring	Page 185
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Page 186 Page 188 1 lifting related to her job. 1 Α. Yes. BY MR. MORIARTY: 2 2 Q. All right. I have a couple 3 3 Q. Okay. Do you know anything of questions about that. First of all, 4 about who put on any particular 4 do you know whether Dr. Heit submitted 5 restrictions that she's under or when 5 100 percent of the mesh that he removed 6 6 those restrictions were placed? to the pathology department? 7 7 A. I'd have to refer to his Α. No, I don't. 8 8 Okay. In your opinion, to a operative report. 9 9 probability, has Mrs. Hammons' smoking Well, they're here. Here's O. 10 had any effect on the health of her 10 the first one right there. So right now you are looking at Exhibit 15, is it? 11 tissues? 11 12 12 A. Yes, 15. On the second page Α. No, I don't believe so. She's evidenced normal healing throughout of the operative note toward the bottom 13 13 her course if her -- in her gynecologic 14 14 of the description of procedures, "The 15 surgeries and also others. 15 right portion of the mesh was excised by 16 O. So even though it's 16 cutting its insertion points into the considered to be a risk factor for obturator internus muscle with curved, 17 17 18 someone like Mrs. Hammons, in your 18 heavy Mayo scissors. Sent to pathology 19 opinion it was not a factor at all in her 19 for evaluation." 20 development of prolapse originally or the 20 Okay. So are you assuming 21 recurrence of her posterior prolapse? 21 that he sent 100 percent of what he 22 A. Correct. 22 removed? 23 And is that just based on 23 That's what it sounds like. Q. Α. 24 the fact that she seemed to heal well 24 And then on the left side, he describes a Page 187 Page 189 after her surgeries in 2009 and 2012 and 1 similar dissection and removal of the 1 2 2013? 2 mesh. He doesn't specifically state 3 A. And 2014, I believe, is when 3 again that the specimen was sent to 4 she had a knee replacement. Yeah. 4 pathology, but since pathology received 5 5 two specimens -- and I think, on the I've never seen any healing 6 impairment in her at all. 6 pathology report, they were identified as 7 Q. All right. Well, could she 7 right and left, if I'm not mistaken. So without the specific 8 8 have a chronic impact on tissues without 9 9 having acute healing issues words saying he sent the left, I would 10 assume that to be the case. 10 postoperatively? Q. Okay. And do you know 11 A. That's possible. I don't 11 think that's been demonstrated in the whether the pathologist just measured the 12 12 13 literature. 13 specimen as submitted or whether they tried to flatten out the mesh, if you 14 Q. At Page 8 of your report, 14 15 Exhibit 1, you're talking about 15 will? 16 Dr. Heit's two procedures, and you went 16 A. I have no idea. back to the pathology reports and you 17 All right. Do you have an 17 were doing some calculations about how opinion, to a reasonable degree of 18 18 medical probability, as to how much mesh 19 much mesh was there compared with the 19 total mesh that may have been implanted, remains in Patricia Hammons? 20 20 21 correct? 21 A. Well, clearly, she has the 22 Yeah. 22 entirety of the four mesh arms. And it's Α. 23 Do you see those 23 possible that she also has a component of Q. measurements? 24 the mesh body leading up to the arms and 24

	•	Page 190			Page 192
1	existing lateral in a lateral		1	are not recurrences caused by Prolift,	
2	position.		2	are they?	
3	Q. Have you ever done a		3	A. Now, in general, what we	
4	calculation of what you believe is that		4	know from the literature is that when	
5	amount of mesh?		5	mesh is used, Prolift mesh is used in one	
6	A. Remaining in her?		6	compartment, that that can deflect the	
7	Q. Yes.		7	forces of intra-abdominal pressure and	
8	A. No.		8	have that force impact more fully on the	
9	Q. In your report, you stated		9	compartment that had not previously been	
10	that it's your opinion that the mesh will		10	treated with the Prolift mesh.	
11	continue to cause inflammation and		11	Q. I thought I asked earlier	
12	continue to contract; is that right?		12	whether the rectocele and enterocele that	
13	A. Yes.		13	Dr. Lackey found in the fall of 2009 were	
14	Q. What's the basis for that		14	related to Prolift. And you said no. I	
15	opinion?		15	thought I asked that.	
16	 A. The basis for that opinion 		16	MR. SLATER: Could you read	
17	is the fact that the body's response to a		17	that back.	
18	foreign body doesn't ever go away. It's		18	(Whereupon, the court	
19	not transient. It continues for as long		19	reporter read back the requested	
20	as the foreign body in this case, the		20	portion of testimony.)	
21	mesh is in place. And we know that		21	MR. SLATER: Objection.	
22	the higher the level of inflammatory		22	Foundation, argumentive.	
23	reaction you have incites an even greater		23	THE WITNESS: Perhaps I	
24	degree of mesh contraction.		24	misunderstood the question.	
		Page 191			Page 193
1	So there's plenty of	Page 191	1	BY MR. MORIARTY:	Page 193
1 2	So there's plenty of evidence about how mesh behaves in use.	Page 191	1 2	BY MR. MORIARTY: O. Okay. Well, let's let me	Page 193
2	evidence about how mesh behaves in use,	Page 191	2	Q. Okay. Well, let's let me	Page 193
2	evidence about how mesh behaves in use, in the body, to support that opinion.	Page 191	2	Q. Okay. Well, let's let me ask it this way. Is it your	
2 3 4	evidence about how mesh behaves in use, in the body, to support that opinion. Q. Have you seen any evidence	Page 191	2 3 4	Q. Okay. Well, let's let me ask it this way. Is it your understanding that Mrs. Hammons currently	
2 3 4 5	evidence about how mesh behaves in use, in the body, to support that opinion. Q. Have you seen any evidence from the medical records themselves that	Page 191	2 3 4 5	Q. Okay. Well, let's let me ask it this way. Is it your understanding that Mrs. Hammons currently has a rectocele and/or enterocele?	
2 3 4	evidence about how mesh behaves in use, in the body, to support that opinion. Q. Have you seen any evidence from the medical records themselves that Mrs. Hammons has had chronic bladder or	Page 191	2 3 4	Q. Okay. Well, let's let me ask it this way. Is it your understanding that Mrs. Hammons currently has a rectocele and/or enterocele? A. Give me a minute. Yes.	
2 3 4 5 6 7	evidence about how mesh behaves in use, in the body, to support that opinion. Q. Have you seen any evidence from the medical records themselves that Mrs. Hammons has had chronic bladder or vaginal infections?	Page 191	2 3 4 5 6	Q. Okay. Well, let's let me ask it this way. Is it your understanding that Mrs. Hammons currently has a rectocele and/or enterocele?	
2 3 4 5 6	evidence about how mesh behaves in use, in the body, to support that opinion. Q. Have you seen any evidence from the medical records themselves that Mrs. Hammons has had chronic bladder or vaginal infections? A. No, I don't believe so.	Page 191	2 3 4 5 6 7	Q. Okay. Well, let's let me ask it this way. Is it your understanding that Mrs. Hammons currently has a rectocele and/or enterocele? A. Give me a minute. Yes. Q. And are you attributing her current rectocele and enterocele to	
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2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	evidence about how mesh behaves in use, in the body, to support that opinion. Q. Have you seen any evidence from the medical records themselves that Mrs. Hammons has had chronic bladder or vaginal infections? A. No, I don't believe so. Q. What about chronic urinary tract infections? A. Oh, I'm sorry. I thought that was part of the question that you just asked. But in any event, no. No. Q. I don't recall right now. Did you see the office records of Dr. Thorn, the orthopedic surgeon who performed the knee replacement surgery? A. I'd have to look at my reliance list. I believe so, but I would know better to look at the list. Q. If Mrs. Hammons claims that I'm sorry. Let me rephrase that.	Page 191	2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Okay. Well, let's let me ask it this way. Is it your understanding that Mrs. Hammons currently has a rectocele and/or enterocele? A. Give me a minute. Yes. Q. And are you attributing her current rectocele and enterocele to Prolift, the Prolift surgery she had in May of 2009? A. In general, we know that her risk is higher. If that's exactly why her rectocele developed, I can't say that with 100 percent certainty. Q. Are you going to render an opinion, to a reasonable probability, that that's what happened? A. Yes, I think it's more likely than not that the Prolift would have had a role in that. Q. If Dr. Baker had performed a vaginal hysterectomy and an anterior	

Page 194 Page 196 forces to the untreated compartment? 1 BY MR. MORIARTY: 1 2 A. It can. What happens 2 Q. -- is that right? 3 3 when -- the difference between a native No, I wouldn't agree with repair like an anterior colporrhaphy is 4 that. She didn't have any evidence of a 5 that that's closer to what the outcome 5 posterior pelvic disorder, if you want to 6 is. It's not a stage zero. What we've 6 call it that. 7 learned over time is that getting women 7 Unmasking means something is like Mrs. Hammons to a point where they 8 in place and you just happened to find it 8 9 later, as opposed to something that's not are at stage zero, that's not necessarily 9 the best outcome for them. And, there and develops subsequently. 10 10 certainly, with regard to the Prolift, Q. Is it likely -- is it more 11 11 there are a lot of reasons why, in likely than not, that regardless of the 12 12 addition to the prolapse issue. surgical technique chosen by Dr. Baker in 13 13 So that in an anterior May of 2009, that Mrs. Hammons at some 14 14 repair, to a lesser extent the forces point would have developed a rectocele 15 15 could affect the posterior wall. 16 and enterocele? 16 O. Let me make sure I 17 17 A. No. I can't say it's more 18 understand what you're saying. 18 likely that she would. She is at risk. Mrs. Hammons had a pelvic floor disorder, 19 But I -- I wouldn't say that it's more 19 than likely that she definitely would. 20 did she not? 20 21 A. Yes. 21 Q. Do you have any way to know, 22 And she was at risk for Dr. Weber, the degree to which 22 Ο. 23 23 Mrs. Hammons' vagina was shortened by that, correct? 24 A. Yes. She developed it. 24 Prolift versus her vaginal hysterectomy Page 195 Page 197 Okay. And the first and her posterior procedures done by 1 1 2 manifestation of it was a cystocele, 2 Dr. Lackey? 3 3 correct, and an apical prolapse? A. No, I don't. 4 4 Do you mind if I stop for a Α. Yes. 5 Okay. And the posterior 5 few minutes and run to the restroom? 6 prolapse, the rectocele and enterocele, 6 (Short break.) 7 manifested later, correct? 7 BY MR. MORIARTY: 8 8 A. Yes. Q. In your report, you comment 9 or mention Dr. Zipper's findings of a 9 Q. After her first repair Grade 3 apical prolapse. Did you see 10 surgery, correct? 10 11 Yes. 11 that? And a Grade 3 posterior prolapse? Α. A. I believe he described those 12 O. All right. It's not the 12 13 mesh that actually creates a rectocele. 13 as stages. I want to be sure about that. It just deflects forces in the direction Yes. Stage. Correct. 14 14 of the posterior compartment; is that If she has apical and 15 15 correct? 16 16 posterior prolapse, those are recurrences from the procedure done by Dr. Heit and 17 That's the explanation or 17 Α. Lackey, correct? the rationale given for this research 18 18 19 finding, yes. 19 A. I would agree with that as 20 Q. All right. And so, in some far as -- excuse me -- as far as the 20 21 sense, it unmasks a part of the body 21 posterior prolapse. She had apical that's already diseased -prolapse even before she saw Dr. Baker. 22 22 MR. SLATER: Objection to I understand that. But 23 23 24 that term "unmasked." 24 Baker didn't repair it. Lackey didn't

Page 198 Page 200 repair it in the fall of '09. The only 1 saying. Yes. apical repair was by Dr. Heit in November 2 2 Q. Every time -- I'm sorry. 3 3 of 2012, correct? Would you agree with me that every time Mrs. Hammons has one of these 4 4 Α. Yes. 5 Ο. So if Mrs. Hammons now has 5 procedures from May of 2009 onward, it 6 6 increases the risks of her having scar an apical prolapse, that is a recurrence 7 from his repair; is that true? 7 tissue and dyspareunia? 8 8 Α. Yes. A. In general terms, yes. 9 9 Now, I know in at least your 0. Was that apical prolapse O. 10 repair to the native tissue, or was that 10 primary report you have rendered some part of the mesh procedure that he opinions about bidirectional elasticity, 11 11 12 performed? 12 correct? 13 Α. The apical suspension 13 Α. Yes. 14 procedure was a sacrospinous ligament 14 Q. Is there some aspect of fixation. And in the operative report, 15 15 Mrs. Hammons' current complaints which is he described providing a connection a result, in your opinion, of mesh not 16 16 between the anterior vaginal cuff, the being bidirectionally elastic? 17 17 18 deepest part of the anterior of the 18 MR. SLATER: Objection. Foundation. 19 vagina, to the sacrospinous ligament 19 20 sutures, and posteriorly using the 20 THE WITNESS: I think that 21 biological graft. 21 is related to issues of pore collapse and maintaining the 22 22 Q. All right. So if I 23 understand what you just said, he used 23 intended characteristics of the 24 the biological graft for the posterior 24 mesh out of the box and into the Page 199 Page 201 repair, but the apical repair was a patient. I'll just stop there. 1 1 native tissue repair, correct? 2 2 BY MR. MORIARTY: 3 3 A. Yes. Q. All right. Let me make sure 4 4 So if she now has a I understand. I asked earlier about what Ο. 5 5 you thought Mrs. Hammons' current Stage III rectocele, that is a failure of 6 the biologic graft that Dr. Heit used in 6 problems were related to her Prolift. 7 November of 2012, correct? 7 And what she told me back then -- and I 8 8 A. Yes. told you I would give you more of a 9 9 chance to talk about it -- dyspareunia 0. And if she has an apical prolapse, that's a failure of the native leading to apareunia, contraction and 10 10 11 tissue repair that he did also in 11 vaginal distortion, erosions in the November of 2012, correct? vagina and the bladder, correct? 12 12 13 A. Yes. 13 Those are the problems that she has experienced and some she 14 O. All right. So, for 14 15 Mrs. Hammons, she's had recurrences now continues to experience. 15 16 twice in the posterior compartment; is 16 Q. Okay. To the best of -- I'm 17 that right? 17 sorry. A. She developed posterior In your opinion, to a 18 18 vaginal prolapse. Dr. Lackey fixed it. probability, does she continue to 19 19 experience erosion in the bladder? She developed a recurrence, and Dr. Heit 20 20 21 fixed it. 21 A. She hasn't been evaluated 22 22 Q. Right. So she's recurred for that since her last visit with 23 23 Dr. Heit, so I can't exclude that with -twice. 24 Yes. I see what you're 24 definitely. Α.

Page 204 Page 202 1 There's no evidence in the 1 to further evaluate her situation to get 2 the kind of information that I think 2 medical records from 2013 to now, August 3 3 2015, that she has further bladder you're looking for. 4 erosion, correct? 4 Q. As of today, the opinion 5 Her worsening frequency and 5 that you just gave is a clinical 6 urgency of urination could be a sign of 6 diagnosis, in your terms; is that right? 7 bladder mesh erosion. She hasn't been 7 A. Yes. 8 8 further evaluated on the basis of those Q. Okay. 9 9 Based on how -- what we know symptoms in the only way that you can Α. diagnose bladder mesh erosion. 10 10 about how mesh behaves and everything Okay. I just need to know, that Mrs. Hammons has been through. 11 11 and my client needs to know, whether, in 12 12 O. Okay. And are you going to your opinion, to a reasonable degree of render opinions, to a reasonable degree 13 13 medical probability, she currently has of medical probability, about any other 14 14 erosion into the bladder from any mesh. problems that she will experience in the 15 15 16 A. Yeah, I can't answer that 16 future as a result of her Prolift? with a yes or a no. It's possible. The MR. SLATER: When you say 17 17 18 only way to find that out would be for 18 "other problems," do you mean are 19 her to have further evaluation. 19 there opinions as to the future? 20 Q. In your opinion, to a 20 MR. MORIARTY: Yeah. 21 probability, is she currently having 21 BY MR. MORIARTY: erosion of mesh into the vagina? 22 22 O. Other medical problems that 23 No, not as of May 5, 2015. 23 she -- that Mrs. Hammons is going to Α. 24 Q. In your opinion, to a 24 experience in the future. Page 203 Page 205 probability, what is the current cause of 1 A. In -- in addition to the 1 2 her dyspareunia and/or apareunia? 2 ones that she already has? 3 3 A. I think the causes are Q. Well, we've talked about 4 4 erosions, and now we've talked about related to the presence of the Prolift 5 5 dyspareunia and apareunia. And I assume mesh, even though a certain amount of it 6 has been removed. The scarring and 6 that the contraction and vaginal 7 damage to the vaginal tissue on a nerve 7 distortion is, in your opinion, linked to 8 8 and blood vessel level that continues to the dyspareunia and apareunia, correct? 9 9 affect her, and to the -- in the areas Α. where the Prolift mesh still exists, the 10 Okay. So what I need to 10 Q. 11 ongoing foreign body reaction and 11 find out before I leave Philadelphia is inflammatory process that continues the whether you intend to go to trial and 12 12 13 vicious cycle of scarring, and so on. 13 testify that Mrs. Hammons is likely to O. Are there any objective experience other physical complaints 14 14 related to Prolift into the future. 15 tests that can be run on Mrs. Hammons to 15 16 confirm or deny the description that you 16 A. I think it's more likely 17 iust gave? 17 than not, she has a substantial mesh A. Imaging can identify the burden. She's already, unfortunately, 18 18 mesh. MRI, ultrasound. shown herself to be someone who's 19 19 An objective test is -responding with a severe intensity of the 20 20 21 other than linking her symptoms -- her 21 inflammatory reaction and the foreign symptoms, the findings on the physical 22 body reaction and bridging fibrosis and 22 the scar plating. And she has all of 23 examination, and then possibly the 23 24 results of imaging, that would be the way 24 those mesh arms in the obturator spaces,

Page 206 Page 208 the hip and the groin. I would be very 1 mesh erosion in the bladder, or some 2 concerned that she would be developing infection of the remaining mesh arms, is 2 3 3 more likely than not to happen with new complications as a result of that. 4 Patricia Hammons. 4 Q. Okay. I understand as a 5 physician and a compassionate person you 5 A. Yes. I did think I answered 6 may be very concerned about that. My 6 that. 7 question is whether you have an opinion, 7 O. And what is the basis for 8 to a reasonable degree of medical 8 your opinion that she is likely to suffer 9 probability, that she is going to develop 9 either bladder or vaginal erosion? certain specific problems in the future The ongoing mesh burden. 10 10 related to her Prolift. The ongoing chronic inflammatory foreign 11 11 body reaction that's continuing to incite 12 A. Yes. 12 13 Okay. And what are those chemicals, cell death, scarring, further Q. 13 problems going to be? nerve damage. Those are all the things 14 14 A. The problems are likely to that form the basis for that opinion. 15 15 be in the areas where she continues to 16 16 So is it your opinion that have the mesh, which are the obturator because these are likely to occur, 17 17 18 spaces in the groin and all the muscles 18 these -- this should all be removed that the mesh arms have gone through and 19 19 surgically soon to prevent that? the reaction that we talked about. And 20 20 A. That's --MR. SLATER: Objection. 21 to the extent that there's still mesh 21 22 22 left in the vagina, then she would be Foundation. 23 manifesting that as a vaginal mesh 23 THE WITNESS: That's a 24 erosion. Even worse, another bladder 24 clinical decision that would need Page 207 Page 209 mesh erosion. Those would be the 1 to be made between Mrs. Hammons 1 2 2 and her possible explanting locations. 3 3 Q. Okay. So the only specific surgeon. 4 medical problems you mentioned were 4 BY MR. MORIARTY: 5 vaginal mesh erosion and bladder erosion. 5 Q. Okay. To the best of your 6 Do you think either of those are likely, 6 knowledge, is there any peer-reviewed 7 based on everything you've reviewed in 7 literature published that would support 8 8 this case? your opinion that mesh arms in a patient 9 9 like Mrs. Hammons are likely to be Α. Well, I think you also included in that the mesh -- or at least 10 10 infected long-term? 11 I did -- the mesh arms. So they are 11 Well, as I told you, there carrying on with their issues. They are reports in the literature. That's 12 12 could be infected. There are many cases 13 13 not a number that you can relate to, in the literature reported of rapidly okay, because of this mesh arm, she has a 14 14 developing severe infections that occur risk of XY over her lifetime. Those data 15 15 16 quite remote from the index mesh 16 don't exist. implantation. So she remains at risk for 17 17 Is there any data to support O. that in the groin where those four mesh a mesh infection rate of greater than 18 18 19 arms are. 19 50 percent? 20 Okay. Dr. Weber, I 20 Q. That's something that can't understand that she may be at risk. All 21 21 be calculated from the literature, as it 22 kinds of things are possible. What I 22 exists. need to find out is whether you have an 23 23 So there is no literature to 24 opinion that mesh erosion in the vagina, 24 support an opinion that mesh arms are

		Page 210			Page 212
1	likely to be infected long-term, correct?		1	that literature does not exist.	
2	A. I've told you what I know		2	Q. Is there any literature	
3	about the literature. That's you		3	regarding midurethral slings for stress	
4	don't get a numerator and a denominator.		4	urinary incontinence with infection rates	
5	I don't have an I don't have a figure		5	of greater than 50 percent?	
6	for you, a percentage figure, 50 percent		6	A. I have not mastered that	
7	or higher. You asked for my opinion, and		7	literature completely.	
				· · · · · · · · · · · · · · · · · · ·	
8	I gave it to you.		8	Q. Has Mrs. Hammons ever	
9	Q. Well, what is your		9	complained to a physician, in any of the	
10	understanding of more likely than not to		10	medical records that you have seen, of	
11	be greater than 50 percent chance of		11	pelvic pain unrelated to sexual	
12	something occurring?		12	intercourse?	
13	A. More likely than not.		13	 A. Not that I can recall right 	
14	Q. Is it greater than		14	now.	
15	50 percent chance of occurring, correct?		15	Q. All right. So as I	
16	A. Yes.		16	understand it from your general primary	
17	Q. Okay. So what I'm trying to		17	report, you have criticisms of Ethicon	
18	find out is whether there's any published		18	for the representations they made about	
19	literature		19	bidirectional elasticity, correct?	
20	A. No.		20	MR. SLATER: Didn't we go	
21	Q to support a greater than		21	over this already? You want to go	
22	50 percent chance that a patient with a		22	over it again?	
23	mesh will be infected.		23	MR. MORIARTY: She didn't	
24	A. No. That literature does		24		
Z 1	A. No. That literature does		24	answer me. That's why I want to	
		D 211			D 212
		Page 211	1	find out what the demands were	Page 213
1	not exist.	Page 211	1	find out what the damages were	Page 213
2	not exist. Q. Okay. So from all the	Page 211	2	first. So now I'm circling	Page 213
2	not exist. Q. Okay. So from all the hernia literature, from all the pelvic	Page 211	2	first. So now I'm circling back	Page 213
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Page 214 Page 216 elasticity harm Patricia Hammons, in your 1 0. Mrs. Hammons did not? 2 2 opinion? A. Mrs. Hammons relied on 3 3 Once a claim has been Dr. Baker's expertise and authority as a 4 4 physician to follow his recommendations. recognized as without foundation, without 5 data, despite the fact that it's been 5 And the information that he conveyed to 6 present in IFU after IFU, then I become 6 her, his misplaced confidence in the 7 very concerned that other statements also 7 Prolift product was what made 8 8 lack data to support. Mrs. Hammons get the Prolift in the first 9 9 And, in fact, that is also place. 10 true, that there are claims that Ethicon 10 Okay. I understand that's Q. has made time and time again until your opinion. My question is very 11 11 finally someone challenges them, like the 12 12 simple. FDA, and it turns out they have no 13 13 Did Mrs. Hammons herself clinical data to support that. In fact, 14 14 rely on anything about bidirectional 15 they're misrepresenting that this is a 15 elasticity when she made the decision -statement that they can actually support. 16 16 No. Α. -- to have Prolift? O. All I want to find out is 17 17 Q. 18 how Ethicon's claims regarding 18 Α. No. bidirectional elasticity harmed this 19 19 MR. SLATER: Are you guys 20 specific patient. 20 withdrawing the intermediary from 21 A. Because she believed what 21 this case? 22 Ethicon said. She made a decision to 22 MR. MORIARTY: Is that a 23 allow this to be implanted in her body 23 rhetorical question? MR. SLATER: It's an ironic, 24 based on information that she had been 24 Page 215 Page 217 given by the company and from her doctor 1 tired comment. Or a tired, ironic 1 who had been given that information by 2 2 comment. It seemed funnier in my 3 3 the company, when the company is known to head. 4 withhold information, make misleading and 4 Susan almost laughed. 5 5 inaccurate claims. MS. ROBINSON: I almost 6 And if Mrs. Hammons had 6 responded. 7 known that Ethicon was doing those kinds 7 BY MR. MORIARTY: 8 of things to information that she 8 Q. And so did Mrs. Hammons have 9 9 received and Dr. Baker knew, as he any physical injury because of a testified, he would not have offered her characteristic of the mesh, such as that 10 10 11 the Prolift, and she wouldn't be in the 11 it was not bidirectionally elastic? MR. SLATER: Objection. 12 situation that she's in now. 12 13 Q. Is there any evidence that 13 Foundation. Misconstrues the Dr. Baker talked with Mrs. Hammons 14 14 issue. 15 15 specifically about bidirectional THE WITNESS: She may have. 16 elasticity? 16 BY MR. MORIARTY: 17 No, he didn't talk with 17 O. Did she, to a reasonable A. Mrs. Hammons about that. degree of medical probability, have an 18 18 19 Q. Okay. So Mrs. Hammons 19 injury associated with some didn't rely on statements about 20 characteristic that it was not 20 21 bidirectional elasticity in deciding 21 bidirectionally elastic? 22 whether to have this procedure or not, 22 A. I don't know. 23 correct? 23 MR. SLATER: It happened 24 She relied --24 quickly. I object again. Lack of Α.

Page 218 Page 220 1 foundation, misconstrues the facts in this case except for one. So 2 Mrs. Hammons, same age, same issue. 2 3 3 characteristics, has a vaginal BY MR. MORIARTY: 4 4 hysterectomy. There's no apical repair. Q. There's some discussion in 5 your primary report about pore size, this 5 Has a transvaginal mesh placed with the difference between -- I think it's a same kind of trocars and equipment. But 6 6 7 millimeter and 75 microns. You're very 7 that mesh has pore sizes or effective 8 pore sizes of one millimeter. 8 familiar with that issue, correct? 9 9 MR. SLATER: Objection. Is it your opinion that these things would not have happened to 10 Mischaracterizes. 10 Mrs. Hammons over the course of 2009 and THE WITNESS: Yes. 11 11 12 BY MR. MORIARTY: 12 '10? Q. Okay. Can you point to any A. It is my opinion that she 13 13 specific harm caused to Patricia Hammons would not have developed mesh contraction 14 14 assuming that the pore size was 15 15 to the extent that she did because of 75 microns instead of one millimeter? 16 16 pore collapse and bridging fibrosis and MR. SLATER: Objection. ridged scar plating and all the things 17 17 18 Lack of foundation. 18 that we've been talking about all day. Whether she would have had 19 Mischaracterizes the issue. 19 20 THE WITNESS: Yes. 20 no complications whatsoever, I can't 21 BY MR. MORIARTY: 21 answer that. 22 Q. Okay. Is that a separate 22 Q. Okay. So is it your opinion 23 opinion from what you've already told me 23 that with a pore size or an effective 24 about the foreign body reaction and 24 pore size of one millimeter, she would Page 219 Page 221 contraction? 1 not have had dyspareunia? 1 2 No, that's the same issue. 2 No, that is not my opinion. 3 Q. Okay. So what complication 3 Okay. So, in your opinion, 4 if the Prolift inserted in Ms. Hammons 4 would she not have had with an effective 5 had one-millimeter pore sizes, she 5 pore size of one millimeter? 6 wouldn't have developed these problems? 6 A. Mrs. Hammons has dyspareunia 7 MR. SLATER: Objection. 7 because of mesh contraction. There are 8 8 Foundation. Incomplete question. many other causes of dyspareunia that 9 9 don't apply to Mrs. Hammons. And I can't Incomplete hypothetical. Misconstrues the issue. 10 predict in some future hypothetical 10 whether she would have an experience of 11 BY MR. MORIARTY: 11 one of those other factors. 12 Q. Is that your opinion? 12 MR. SLATER: You can answer. 13 13 Q. But are you saying that she THE WITNESS: Effective pore would not have dyspareunia from mesh 14 14 contraction had the pore size been 15 size and -- and I can't predict 15 16 what would happen with a specific 16 different? patient. Effective pore size That's my understanding, 17 17 Α. greater than one millimeter has 18 18 yes. been identified by mesh experts as 19 19 Okay. Did Dr. Heit ever say what's needed for a safe mesh. in his deposition that it was impossible 20 20 to remove the mesh that he did remove 21 Effective pore size. 21 22 BY MR. MORIARTY: 22 from Patricia Hammons? 23 Q. Okay. I'm just trying to 23 A. I'm sorry? It's impossible 24 figure out -- let's assume all the same 24 to remove the mesh he removed?

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Q. I knew somebody was going to flag that silly question. MR. MORIARTY: I thought it was going to be you. MR. SLATER: I'm just trying to figure out what happened when you said we were almost done an hour ago. MR. MORIARTY: It's not my fault. MR. SLATER: Now I feel responsible. BY MR. MORIARTY: Q. So, obviously, Dr. Heit was able to remove some of the mesh, correct? A. Yes. Q. Now, did he say in his deposition that he left whatever mesh he left behind because it was impossible to remove? A. Because it in his judgment, the risk of continuing to remove the mesh was not in the patient's best interest, not that it was	2222	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Hospital, which is a emergency room record. Remember you were shown that earlier? A. Yes. Q. And you talked about a complaint of a pessary falling out. Do you remember that question? A. Yes. Q. And I just want to show you on the third page. It says that "she had pain in the vaginal area and the aggravating factor was the pessary" and that "the onset of that pain was this evening," correct? A. Yes. Q. Is there any indication this was anything other than an acute event that caused discomfort? A. No. Q. Okay. I'll start at the end and work my way forward. You were asked about the bidirectional elasticity statement that was in the IFU, even though Ethicon	Page 224
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	necessarily impossible. He's making a judgment based on his experience about how to proceed in the best interest of the patient. Q. In other words, that the risk of continuing the dissection exceeded the risk of leaving the mesh behind? A. Correct. At that one yes, at that setting. MR. MORIARTY: I'm done. Thanks for your patience. MR. SLATER: I have a few cleanup questions. Do you want me to do them now? (Whereupon, a discussion was held off the record.) EXAMINATION EXAMINATION BY MR. SLATER: Q. Dr. Weber, you were shown earlier in the deposition a record from February 1, 2007, from Daviess Community	223	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	eventually admitted they had obviously had no data to support it and removed it for that reason. Do you remember you were asked some questions about that? A. Yes. Q. Just to be clear, and make sure the testimony is clear. Did you see in Dr. Baker's deposition where he said that he believed that statement to be true and supported? A. Yes. MR. MORIARTY: Objection. BY MR. SLATER: Q. And did you see in his deposition that Dr. Baker indicated that was a factor that led him to use the Prolift? MR. MORIARTY: Objection. BY MR. SLATER: Q. You can answer. A. Yes. Q. Okay. If Dr. Baker hadn't used the Prolift, would I be correct that the injuries you've attributed to the	Page 225

Page 226 Page 228 Prolift couldn't have happened because 1 counsel about your opinions on future there would have been no Prolift to cause injuries and symptoms she suffered due to 2 2 3 3 the mesh. Do you remember those them? 4 questions a few minutes ago? 4 Α. Correct. 5 Q. The bidirectional elasticity 5 A. Yes. statement actually has a second half that 6 O. And you were asked by 6 says that it allows adaptations to the 7 counsel would the mesh need to be 7 8 removed, and you indicated, Well, that 8 body's stresses, correct? 9 9 would be a conversation she'd have to Yes. Α. 10 O. And when the mesh contracts 10 have with a surgeon that was actually 11 and becomes inflexible and hard, it's not 11 considering treating her, correct? adapting to the body's stresses, is it? 12 A. Yes. 12 O. Am I correct that the 13 A. No. 13 14 MR. MORIARTY: Objection. 14 removal of any large amount of mesh, 15 BY MR. SLATER: 15 especially the arms, meaning the mesh that remains in her body, would not 16 Q. So the lack of adaptation to 16 the body's stresses would actually be one likely be safe and certainly not feasible 17 17 of the factors that was causing harm to 18 to a large extent, especially taking into 18 19 Mrs. Hammons, wouldn't it? 19 account the arms? 20 MR. MORIARTY: Objection. 20 MR. MORIARTY: Objection. 21 THE WITNESS: Yes. 21 THE WITNESS: Yes. 22 BY MR. SLATER: 22 BY MR. SLATER: 23 23 Q. Early on in the deposition, O. You were asked about the 24 frequency and urgency in relation to 24 you were asked about Dr. Baker's Page 227 Page 229 evaluation of the stage of prolapse when 1 whether or not there was some -- well, 1 2 2 he first was evaluating Ms. Hammons. Do rephrase. 3 3 You were asked about the you remember those questions from earlier 4 4 in the deposition? frequency and urgency that's been 5 reported for Ms. Hammons, correct? 5 Α. Yes. 6 A. Yes. 6 And Dr. Baker -- tell me if Q. 7 Q. And am I correct that there 7 I'm correct -- indicated a Stage IV 8 8 were -- there are indications in the prolapse in his records, correct? 9 9 records that the mesh was irritating and A. A Grade 4. actually eroding into the detrusor? 10 Grade 4. Sorry. 10 Q. MR. MORIARTY: Objection. 11 And his definition of a 11 Grade 4 prolapse -- tell me if I'm 12 THE WITNESS: Yes. 12 13 BY MR. SLATER: 13 wrong -- was that it protrudes outside the vagina at all? 14 Q. And is it likely that that 14 A. Outside -- right. Correct. is a contributing factor to her frequency 15 15 16 and urgency complaints? 16 Outside of the hymen, yes. 17 Yes. 17 Outside of the hymen. I'm A. O. And is it likely that 18 18 sorry. continued irritation from the mesh and 19 19 Under the POP-Q measurement system, which is the rigorous clinical the scarring in that area would be a 20 20 evaluation system, could the bladder 21 likely contributing factor to any ongoing 21 frequency and urgency that she has? protrude outside the hymen, beyond the 22 22 hymen and be a Stage II? 23 Yes. 23 Α. 24 Q. You were asked about -- by 24 Yes. Α.

		Page 230			Page 232
1	Q. So is that one of the		1	that at all?	
2	factors that you considered in evaluating		2	A. No.	
3	what her stage of prolapse likely was?		3	Q. In terms of evaluating,	
4	A. Yes.		4	again, what the stage of prolapse was,	
5	Q. Did you see documents		5	you indicated that Ms. Hammons was able	
6	internal to Ethicon indicating that the		6	to actually she commented on what she	
7	Prolift was actually only indicated for		7	could feel, correct?	
8	Stage III and IV prolapse?		8	A. Yes.	
9	MR. MORIARTY: Objection.		9	Q. Did she also indicate that	
10	This is a general opinion.		10	she saw a bit of the bladder, that she	
11	MR. SLATER: You asked about		11	could see that under certain	
12	this. And she said it. I'm going		12	circumstances as well?	
13	to make it clean.		13		
14	But that was good. You kept		14	Q. And when you put together	
15	a straight face.		15	everything that Ms. Hammons said and	
16	BY MR. SLATER:		16	everything Dr. Baker said, you believe	
17	Q. Are you familiar with those		17	she had a Stage II, possibly an early	
18	documents?		18	Stage III?	
19	A. Yes.		19	A. Yes.	
20	Q. Did Ethicon warn Dr. Baker		20	Q. You were asked a question	
21	in any way, to your knowledge, that he		21	about restrictions on Ms. Hammons when	
22	would need to have a rigorous clinical		22	,	
23	evaluation performed of the prolapse to		23	that question earlier?	
24	ensure that it was at least a full-blown		24	A. Yes.	
	Chara III au IV hafaya khia musaaduwa	Page 231	4	O Was Ma Harryson also and to	Page 233
1	Stage III or IV before this procedure	Page 231	1	Q. Was Ms. Hammons cleared to	Page 233
2	would be indicated? Was he told that	Page 231	2	go back to work, according to the	Page 233
2	would be indicated? Was he told that MR. MORIARTY: Objection.	Page 231	2	go back to work, according to the records, by Dr. Baker?	Page 233
2 3 4	would be indicated? Was he told that MR. MORIARTY: Objection. BY MR. SLATER:	Page 231	2 3 4	go back to work, according to the records, by Dr. Baker? A. Yes.	Page 233
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		Page 234			Page 236
1	2000 date FDA public health notification		1	the report to find those specific words.	
2	and asked if that was available,		2	Certainly, the issue of selecting the	
3	something that could have been available		3	I'm sorry that Ethicon intended	
4	to Dr. Baker. Remember you were asked		4	Prolift to be used for advanced stages of	
	•				
5	that?		5	prolapse, meaning Stage III and IV, is	
6	A. Yes.		6	something that is discussed in my report.	
7	Q. That was certainly available		7	Q. Okay. And I understand that	
8	to Ethicon, wasn't it?		8	that is. What I'm trying to find out is	
9	A. Yes.		9	whether you have rendered an opinion	
10	Q. They knew about it, right?		10	previously in your primary report, or	
11	A. Yes.		11	even in your report in this case,	
12	Q. The 2008 2007 ACOG		12	Exhibit 1, that Ethicon had some duty to	
13	bulletin, you authored that, called these		13	go so far as to tell the doctors to be	
14	procedures experimental. Was that		14	extra careful about the documentation and	
15	something that was available to Ethicon?		15	physical examination of the degree of	
				• •	
16	MR. MORIARTY: Objection.		16	existing prolapse.	
17	THE WITNESS: Yes.		17	A. That would be part and	
18	BY MR. SLATER:		18	parcel of being a highly skilled,	
19	Q. Did Ethicon have the		19	high-volume-performing pelvic	
20	opportunity to warn about all those types		20	reconstructive surgeon, to have the	
21	of things if they had wanted to?		21	familiarity and experience in doing	
22	A. Yes.		22	detailed assessments of women's prolapse.	
23	MR. SLATER: I don't have		23	Q. That's not my question. My	
24	any other questions.		24	question is only whether you have written	
		Page 235			Page 237
1		Page 235	1	about this opinion before in either	Page 237
1 2	 FURTHER EXAMINATION	Page 235	1 2	about this opinion before in either Exhibit 1 or Exhibit 2.	Page 237
2	 FURTHER EXAMINATION 	Page 235		Exhibit 1 or Exhibit 2.	Page 237
2 3	FURTHER EXAMINATION BY MR. MORIARTY:	Page 235	2	Exhibit 1 or Exhibit 2. MR. SLATER: Objection.	Page 237
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2 3 4 5	BY MR. MORIARTY: Q. Sorry. He raised a couple	Page 235	2 3 4 5	Exhibit 1 or Exhibit 2. MR. SLATER: Objection. That's argumentive. And it mischaracterizes.	Page 237
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		i. Webei, M.D.	
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	that the device was intended to be used by high-volume surgeons. Let's just leave it at that, whether the words "highly skilled" are in those testimony or documents. Okay. That's a separate question. What I'm trying to find out is whether you have previously rendered an opinion before today that a company like Ethicon had to go so far as to basically tell doctors how to stage and grade their patients. MR. SLATER: Objection. That mischaracterizes all the testimony and lack of foundation. You can answer. BY MR. MORIARTY: Q. That's a "yes" or "no" or an "I don't remember if I've written that before"? MR. SLATER: I don't agree with the characterization. The doctor can answer as she sees fit to a question that's very	1 MR. MORIARTY: Okay. I 2 don't have any other questions. 3 (The witness was excused.) 4 (Deposition concluded at 5 approximately 3:08 p.m.) 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Page 240
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	confusing. THE WITNESS: In the very specific way your question is worded, I don't believe I've written on that in my report. BY MR. MORIARTY: Q. Okay. The other thing that Mr. Slater asked you about is, is it your opinion that Mrs. Hammons currently has frequency and urgency related to her Prolift? A. Mrs. Hammons has urinary symptoms related to the fact that the Prolift was implanted and, in the process of scarring and all the things that we've been talking about, affected her bladder function to an ongoing extent, regardless of what small portion of the mesh may be removed and what portion remains. Q. All right. So it's your opinion that Mrs. Hammons has ongoing urinary complaints related to her Prolift? A. Yes.	State of Pennsylvania : :SS County of Philadelphia : CERTIFICATE I, MICHELLE L. GRAY, a Registered Professional Reporter, Certified Shorthand Reporter and Notary Public do hereby certify that, pursuant to notice, the deposition of ANNE M. WEBER, M.D. was duly taken at Kline & Specter, 1525 Locust Street, Philadelphia, Pennsylvania, on September 1, 2015 at 9:03 a.m. before me. ANNE M. WEBER, M.D. was first duly sworn by me according to law to tell the truth, the whole truth and nothing but the truth and thereupon did testify as set forth in the above transcript of testimony. The testimony was taken down stenographically by me. Ido further certify that the above deposition is full, complete and a true record of all the testimony given by the said witness. MICHELLE L. GRAY, A Registered Professional Reporter, Certified Shorthand Reporter and Notary Public Dated: September 2, 2015 (The foregoing certification of this transcript does not apply to any reproduction of the same by any means, unless under the direct control and/or supervision of the certifying reporter.)	Page 241

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Please read your deposition over carefully and make any necessary corrections. You should state the reason in the appropriate space on the errata sheet for any corrections that are made. After doing so, please sign the errata sheet and date it. It will be attached to your deposition. It is imperative that you return the original errata sheet to the deposing attorney within thirty (30) days of receipt of the deposition transcript by you. If you fail to do so, the deposition transcript may be deemed to be accurate and may be used in court.	Page 242	4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	ACKNOWLEDGMENT OF DEPONENT I,	Page 244
1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	E R R A T A PAGE LINE CHANGE REASON:		1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	LAWYER'S NOTES PAGE LINE	